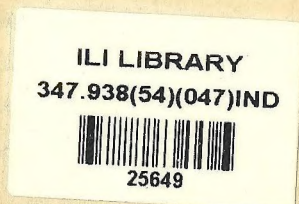
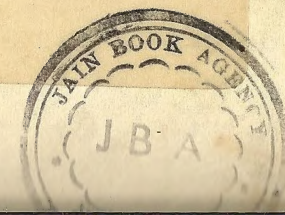




**REPORT
OF
COMMISSION OF INQUIRY
IN TO
CONSPIRACY TO MURDER
MAHATMA GANDHI**



PART I





25648

347.938 (54) (17)
IND

CONTENTS

VOLUME I

PART I

	PAGES
Chapter I—Introduction	3—6
Chapter II—Facts	7—16
Chapter III—Inquiries—Delhi	17—38
Chapter IV—Inquiries—Bombay	39—51
Chapter V—Scope of the Inquiry	53—74
Chapter VI—Background of the Accused	75—83
Chapter VII—Jurisdiction of the Commission	85—94
Chapter VIII—Powers of a Minister and Ministerial responsibility	95—114
Chapter IX—Panchgani incident	115—124
Chapter X—Wardha incident	125—126
Chapter XI—Accident to Gandhiji's special train	127—128

VOLUME II

Chapter XII—Conditions in Delhi	131—231
A—Partition of India, the events leading upto it and the aftermath of the partition	133—154
B—What was happening in Delhi after the bomb was thrown	154—159
C—Political conditions in Delhi	159—166
D—Statements of officers of the Home Ministry	167—182
E—The state of the Delhi Administration	182—190
F—Conditions at Birla House—What precautions the Gandhi ashramites took	190—207
G—Measures taken to protect Mahatma Gandhi	207—217
H—Adequacy of Measures	217—226
I—Causes of Murder of Mahatma Gandhi	226—231
Chapter XIII—Alwar Affairs	233—246
Chapter XIV.—Gwalior Affairs	247—250

VOLUME III

Chapter XV—Poona	253—312
Chapter XVI—Ahmednagar	313—352
Chapter XVII—Razakar Movement	353—354

CONTENTS
PART I

VOLUME I

Chapter I--Introduction	1-6
Chapter II--Japan	7-16
Chapter III--Japan--1911	17-30
Chapter IV--Japan--1912	31-51
Chapter V--Japan--1913	52-74
Chapter VI--Japan--1914	75-83
Chapter VII--Japan--1915	84-94
Chapter VIII--Japan--1916	95-114
Chapter IX--Japan--1917	115-124
Chapter X--Japan--1918	125-130
Chapter XI--Japan--1919	131-136

VOLUME II

Chapter XII--China--1911	137-142
Chapter XIII--China--1912	143-154
Chapter XIV--China--1913	155-160
Chapter XV--China--1914	161-172
Chapter XVI--China--1915	173-184
Chapter XVII--China--1916	185-196
Chapter XVIII--China--1917	197-208
Chapter XIX--China--1918	209-220
Chapter XX--China--1919	221-232
Chapter XXI--China--1920	233-244
Chapter XXII--China--1921	245-256
Chapter XXIII--China--1922	257-268
Chapter XXIV--China--1923	269-280
Chapter XXV--China--1924	281-292
Chapter XXVI--China--1925	293-304
Chapter XXVII--China--1926	305-316
Chapter XXVIII--China--1927	317-328
Chapter XXIX--China--1928	329-340
Chapter XXX--China--1929	341-352
Chapter XXXI--China--1930	353-364

VOLUME III

Chapter XXXII--China--1931	365-376
Chapter XXXIII--China--1932	377-388
Chapter XXXIV--China--1933	389-400
Chapter XXXV--China--1934	401-412
Chapter XXXVI--China--1935	413-424
Chapter XXXVII--China--1936	425-436
Chapter XXXVIII--China--1937	437-448
Chapter XXXIX--China--1938	449-460
Chapter XL--China--1939	461-472
Chapter XLI--China--1940	473-484
Chapter XLII--China--1941	485-496
Chapter XLIII--China--1942	497-508
Chapter XLIV--China--1943	509-520
Chapter XLV--China--1944	521-532
Chapter XLVI--China--1945	533-544
Chapter XLVII--China--1946	545-556
Chapter XLVIII--China--1947	557-568
Chapter XLIX--China--1948	569-580
Chapter L--China--1949	581-592
Chapter LI--China--1950	593-604
Chapter LII--China--1951	605-616
Chapter LIII--China--1952	617-628
Chapter LIV--China--1953	629-640
Chapter LV--China--1954	641-652
Chapter LVI--China--1955	653-664
Chapter LVII--China--1956	665-676
Chapter LVIII--China--1957	677-688
Chapter LIX--China--1958	689-700
Chapter LX--China--1959	701-712
Chapter LXI--China--1960	713-724
Chapter LXII--China--1961	725-736
Chapter LXIII--China--1962	737-748
Chapter LXIV--China--1963	749-760
Chapter LXV--China--1964	761-772
Chapter LXVI--China--1965	773-784
Chapter LXVII--China--1966	785-796
Chapter LXVIII--China--1967	797-808
Chapter LXIX--China--1968	809-820
Chapter LXX--China--1969	821-832
Chapter LXXI--China--1970	833-844
Chapter LXXII--China--1971	845-856
Chapter LXXIII--China--1972	857-868
Chapter LXXIV--China--1973	869-880
Chapter LXXV--China--1974	881-892
Chapter LXXVI--China--1975	893-904
Chapter LXXVII--China--1976	905-916
Chapter LXXVIII--China--1977	917-928
Chapter LXXIX--China--1978	929-940
Chapter LXXX--China--1979	941-952
Chapter LXXXI--China--1980	953-964
Chapter LXXXII--China--1981	965-976
Chapter LXXXIII--China--1982	977-988
Chapter LXXXIV--China--1983	989-1000

Vol. I

CHAPTER I

Introduction

1.1 This Commission was appointed by notification dated March 22, 1965, S.O. 992. Mr. Gopal Swarup Pathak, M.P., was appointed to make the Inquiry. On his being appointed a Minister, I was appointed to conduct the Inquiry on November 21, 1966. The terms of reference were:—

- (a) whether any persons, in particular Shri Gajanan Viswanath Ketkar, of Poona, had prior information of the conspiracy of Nathuram Vinayak Godse and others to assassinate Mahatma Gandhi;
- (b) whether any of such persons had communicated the said information to any authorities of the Government of Bombay or of the Government of India; in particular, whether the aforesaid Shri Ketkar had conveyed the said information to the late Bal Gangadhar Kher, the then Premier of Bombay, through the late Balukaka Kanetkar;
- (c) if so, what action was taken by the Government of Bombay, in particular by the late Bal Gangadhar Kher, and the Government of India on the basis of the said information.

This notification was amended by notification No. 31/28/68-Poll.I(A) dated October 28, 1968, making clause (c) to read as follows:—

- (c) if so, what action was taken by the Government of Bombay, in particular by the late Bal Gangadhar Kher, and the Government of India and by the officers of the said Governments on the basis of the said information.

1.2 To assist this Commission, Mr. G. N. Vaidya was engaged by the Government of Maharashtra and Mr. K. S. Chawla, Barrister-at-Law was appointed for the Government of India. The Government of India then replaced their counsel and engaged Mr. B. B. Lall, Advocate, who appeared before the Commission as from February 10, 1968. Mr. G. N. Vaidya having been raised to the Bench, Mr. R. B. Kotwal took his place.

1.3 After I was appointed to conduct the Inquiry, notices were issued under rule 2(1) (a) of the rules under the Commissions of Inquiry Act (Act LX of 1952).

1.4 The Commission examined 101 witnesses and 407 documents were produced by the two Governments and witnesses who appeared before the Commission. The examination of the witnesses took 162 days at various places where the Commission had to sit for the convenience of the witnesses—Bombay, New Delhi, Dharwar, Nagpur, Poona, Baroda and Chandigarh.

1.5 As the matter under inquiry was of great importance to the two Governments, the Commission allowed them full opportunity

to produce evidence and to cross-examine witnesses whom the Commission called and the Commission is glad to say that the witnesses who were summoned appeared most willingly and without demur suffered the strain and embarrassment if not the discomfort of searching cross-examination. Counsel argued their respective cases for 50 days out of which Mr. R. B. Kotwal took 37 days and Mr. B. B. Lall 13. Commission thought it fit to give full latitude to Counsel to put their respective cases before the Commission. A list of the sittings on different dates and the number of witnesses examined and their names are set out in the appendix I.

1.6 The Commission is glad to say that it got full co-operation from witnesses as well as from Counsel but for which it might have been difficult to make the Inquiry.

1.7 The Report is in six volumes. The evidence recorded by the Commission is contained in five volumes and the documents produced before it are contained in another five volumes. Besides this, the record of the proceedings before Judge Atma Charan had also to be perused as some of the statements were made parts of the evidence before the Commission. The case diaries of the Delhi Police investigation into the bomb case and the murder case and the Crime Report of the Bombay Police as also some of the files produced by the Government of India, Director, Intelligence Bureau and by the Inspector-General of Police, Delhi, have been made parts of the record.

1.8 The Commission wishes to thank all those officers who throughout assisted the Commission in its Inquiry and also those officers of the Government of India as well as of the Government of Maharashtra who have produced the documentary evidence required by the Commission or were necessary to subserve the smooth working of the Commission. In this matter, the Government of Maharashtra has been particularly helpful and they placed all the relevant records which were in their possession. The Government of India have also placed such documents which were in their possession and the Director, Intelligence Bureau has also done the same. But for their willing co-operation it might not have been easy to conduct this Inquiry or to bring it to a successful end.

1.9 Commission wishes to thank counsel who have conducted their respective cases with diligence and ability. But for their assistance it might not have been possible to unravel the skein of tangled facts submitted before the Commission.

1.10 The scheme which the Commission has followed is this that in every chapter where facts had to be discussed the Commission has set out a narration of facts giving its opinions on questions of facts wherever necessary but as the Commission is a fact-finding body and the conduct of several officers of Government and the action and inactions of Ministers has had to be inquired into and commented upon, the Commission thought it expedient in the interest of justice to give wherever it was necessary a resume of the evidence of each of the important witnesses. This has, in many cases, led to repetition and duplication but because the question of the responsibility of officers and Ministers was involved the Commission has had to adopt this pattern in spite of the danger of repetitions.

1.11 During the course of the Inquiry the official acts of persons who are unfortunately dead have also had to be inquired into and commented upon but in such cases the Commission has been careful to refer to all the documentary and other evidence which have been placed before the Commission. In most cases the authors of these documents were the deceased persons themselves or they were compiled under their directions. It is unfortunate that the actions of persons who are dead have had to be inquired into and sometimes adversely commented upon but that was inevitable in view of the nature of the inquiry.

1.12 Some witnesses have made statements in regard to certain eminent persons, who could not be examined either because they are out of India or due to reasons of health and *lapsus memoriae* due to lapse of time. Commission has avoided, as far as it was possible and consistent with its duty, which the Commission had in regard to fact-finding, commenting upon the actions of such persons but wherever it was absolutely unavoidable the Commission has not hesitated to make its comments.

1.13 The Report of the Commission has been divided into chapters and sub-chapters. In Chapter II are set out the facts preceding and leading to the setting up of this Commission. In Chapters III and IV the Commission has discussed what it has called 'Inquiries' held after the murder of Mahatma Gandhi. They include the inquiry made on 31st January after the funeral of Mahatma Gandhi, the interpellations in the Constituent Assembly, the trial of the Murder case, and the explanations given by the police officers of Delhi and Bombay after certain adverse remarks were made by Judge Atma Charan in his judgment and the action taken by the Government of India thereupon. At Bombay also there were similar inquiries. They include the interpellation in the Bombay Legislative Assembly, a quasi inquiry by the Inspector General of Police, Bombay, the debate in the Bombay Legislative Assembly in 1949, and the explanation given by the Bombay police after the adverse remarks. In Chapter V the scope of the present Inquiry and the interpretation put on the language used in the Notification constituting the Inquiry have been discussed. Chapter VI deals with the background of the accused in the Murder case and Chapter VII with the jurisdiction of the Commission. In Chapter VIII the constitutional responsibility of Ministers has been dealt with.

1.14 The Commission has next taken up and discussed the general conditions in the country at the time when the murder took place. Three incidents which happened previous to the murder in 1944 and 1946 are dealt with in Chapters IX to XI. They are the alleged attack on Mahatma Gandhi at Panchgani and Wardha and the attempted derailment of the Gandhi Special on Kalyan-Poona section.

1.15 In Chapter XII the conditions in Delhi just before and after the murder have been discussed at some length in 9 sub-chapters XII-A to XII-I. In Chapters XIII and XIV the conditions at Alwar and Gwalior have been discussed.

1.16 Chapters XV to XVII deal with conditions prevailing in the Maharashtrian region of Bombay Province i.e. at Poona and Ahmednagar. Chapter XVIII deals with conditions in Bombay.

1.17 As the murder of Mahatma Gandhi had a communal origin, three communal organisations the Hindu Mahasabha, the R.S.S., and the Rashtra Dal have been discussed in Chapter XIX.

1.18 The terms of reference (a) and (b) are discussed in Chapters XX and XXI, the latter has been divided into two parts 'A', and 'B'. 'A' deals with prior knowledge at Delhi and 'B' with Bombay.

1.19 Chapter XXII deals with term of reference (c). Under this head fall the investigation at Delhi and Bombay and these have been divided into three chapters XXIII, XXIV and XXV.

1.20 Findings have been given in Chapter XXVI.

1.21 In the matter of Waters Inquiry protest was raised in the British Parliament about the injustice done by inquiries held under the Tribunals of Inquiries Act of 1921 corresponding to the Commissions of Inquiry Act and the defect has been referred to by Lord Devlin in his broadcast on the B.B.C. which is reported in the *Lit-tener* dated 12th December, 1968. This is what Lord Devlin has said:—

“Under our system it's the responsibility of the advocate on each side—I use that term to cover both barrister and solicitor—to see that all the relevant facts are brought before the judge. This is what is known as the adversary system as opposed to the inquisitorial. When, for example, a government inquiry is set up to investigate, let's say, the causes of a national disaster, there is no opposition of adversaries, and the commission of inquiry has to be armed with powers to ascertain the facts for itself. Under the adversary system it's presumed that if each side produces the evidence in its own favour, the judge will at the end of the day have the whole picture in front of him. Indeed, I think myself that he will get a better picture that way than if he does the job himself.”

In judging the results of an Inquiry this onesidedness has always to be kept in view. But there is no other method devisable.

1.22 The Commission has been subjected to criticism sometimes complimentary and sometimes adverse. Those who have held high judicial office may be impervious to and may not be affected by such criticisms; but such criticisms are likely to affect the public mind and it is unfortunate that unlike in England such criticisms cannot be taken notice of by superior courts and there may be some constitutional difficulty about it.

1.23 The Commission has not examined the then Governor General, Earl Mountbatten, because he was not in India but he has been mentioned in the statements of certain witnesses from which certain deductions may have unwittingly been made. Commission would like to say that it expresses no opinion on the correctness or otherwise of the statements made by witnesses in regard to matters with which his Lordship was connected.

CHAPTER II—FACTS

Index of Paragraphs

- 2.2 Jinnah's suggested exchange of population
- 2.3 Mountbatten plan
- 2.4 Direct Action Day and consequences thereof
- 2.6 Refusal to pay cash balances
- 2.7 Maulana's complaint
- 2.8 Pressure on Mahatma for getting moneys paid
- 2.9 Mahatma's fast
- 2.14 Conspiracy at Poona
- 2.15 & 19 Bomb explosion
- 2.16 Movements of conspirators
- 2.21 Investigation at Bombay and Delhi
- 2.30 Murder of Mahatma Gandhi
- 2.34 Bombay Inquiry

CHAPTER II

Facts

2.1 Facts which have preceded and given rise to this reference are these:

2.2 On December 10, 1945 Mr. Jinnah first suggested the possibility of the exchange of population "if it could be done purely on a voluntary basis", which the Hindus and Sikhs and other non-Muslims of the Punjab, North West Frontier Province, Sindh and Bengal rejected most vehemently. On November 24, 1946 Mr. Jinnah at a press conference at Karachi said that the question of exchange should be taken up immediately to which the reaction of non-Muslims throughout India was most unfavourable though it was supported by the Muslim League but in the Punjab only one League leader supported it e.g. the Nawab of Mamdot.

2.3 On 2nd June 1947 Lord Mountbatten announced a three-fold plan for solution of the Indian problem, one of which was the partition of the country—Pakistan to have Muslim majority areas of the Punjab, Sindh, Baluchistan and Bengal. There was to be a plebiscite in N.W.F.P. but that also went in favour of Pakistan. *A fortiori* the rest of territories of the country were to form India.

2.4 In pursuance of their demand for Pakistan the Muslim League in about March 1947 observed what was the Direct Action Day the consequence of which was that Hindus and Sikhs in the western districts of the Punjab particularly in rural areas were subjected to indescribable atrocities which in one of the northern districts of the Punjab was termed the 'Rape of Rawalpindi'. Consequent upon this and particularly after the announcement of the Partition plan the Hindus and Sikhs of the western districts of Western Punjab started leaving their hearths and homes and migrated into eastern districts of the Punjab, Delhi and into western U.P. which *inter alia* created a law and order problem in those parts. There had been in 1946 what were euphemistically called Hindu-Muslim riots in Noakhali and Tipperah districts of East Bengal which had resulted in forcible conversions, murder, rape, abduction, etc., of which the victims were solely Hindus. Mahatma Gandhi thereupon with a party of his *ashramites* went on a peace mission to Chaumuhani in Noakhali district on November 7, 1946 and remained in that district till March 3, 1947. After leaving Noakhali the Mahatma came to Bihar and from there came back to Calcutta and after visiting Kashmir and again visiting Patna and Calcutta returned to New Delhi on September 9, 1947 and stayed at Birla House instead of at Bhangi Colony.

2.5 From Noakhali he came to Patna via Sodepur near Calcutta. He returned to Delhi but went back to Patna and returned to Delhi on May 25, 1947. From there he went to Srinagar and Jammu and

Wah and again went to Calcutta on August 7, 1947. He finally returned to Delhi on September 9, 1947, after having stayed in a Muslim locality in Calcutta (Beliaghata) and when he arrived in Delhi he was shocked to hear about the riots in the capital—see 'Mahatma Gandhi' by Tendulkar, Vol. VIII, page 134.

2.6 Sometimes in the end of December, 1947 the Government of India decided to postpone the payment of 55 crores Pakistan's share of cash balances. It was a freeze and the payment was to await an overall settlement.

2.7 On January 4, 1948 the Delhi Maulanas complained to Mahatma Gandhi about their safety putting moral pressure upon him, which from all accounts greatly disturbed the Mahatma.

2.8 According to some witnesses Lord Mountbatten also was putting moral pressure on the Mahatma in regard to the payment of 55 crores, the non-payment of which, according to him, would have tarnished the fair name and honour of India. Pyarelal in his book at page 700 has given a slightly different version and has called it invited advice. He also impressed upon Mahatma Gandhi the necessity of exerting his influence to prevent the exodus of Muslims from Delhi to Pakistan. The Commission has not examined Lord Mountbatten and it expresses no opinion on the correctness or otherwise of statement regarding moral pressure.

2.9 On January 13, 1948 at 11.55 A.M. the Mahatma undertook a fast with two objectives (i) to undo the decision regarding the payment of the cash balances to Pakistan, and (ii) to produce an atmosphere of proper Hindu-Muslim amity in Delhi. A fuller account of this will be given later. On January 15, 1948, i.e., on the third day of the fast the Government of India announced that it had decided to pay the 55 crores cash balances to Pakistan immediately. This greatly incensed militant sections of the Hindus, particularly the Hindu Mahasabha. The Mahatma in his post-prayer speeches had been insisting that the Muslims should not be disturbed from their habitations and that the Hindu refugees who had come should not indulge in violence so as to create a situation which would force the Muslims to leave their homes.

2.10 During Mahatma's fast there were processions taken to Birla House to protest against Mahatma's fasting in order to coerce Government of India to pay 55 crores and to prevent the rehabilitation of Hindu refugees into houses left vacant by the Muslims who had taken refuge in Purana Quila, Humayun's Tomb, etc. Some of the refugees were so incensed that they took out processions and slogans were shouted 'MARTA HAI TO MARNE DO' (If Gandhi wants to die, let him die). However, as a result of the fast an atmosphere was created which according to Pyarelal's book* softened the hearts of a large section of the Hindus and the leaders of the Hindus and the Muslims agreed to sign a four-point pledge to keep peace and harmony.

2.11 On the morning of January 18, 1948 the Peace Committee which had been formed after the Mahatma's undertaking the fast gave a pledge assuring Gandhiji (i) that the annual fair at Khawaja Qutabuddin's Mausoleum at Mehrauli will be held as usual, (ii) Muslims will be able to move about in Delhi, (iii) Mosques left by the Muslims and taken possession of by Hindus and Sikhs will be vacated, Muslim areas will not be forcibly occupied, and (iv) the Hindus will not object to the return of Muslims who had migrated, whereupon the Mahatma gave up his fast taking orange juice from the hands of Maulana Azad at 12.45 P.M.

2.12 On January, 1948 a meeting under the auspices of the Hindu Mahasabha was held in which they expressed indignation over the payment of 55 crores, described Mahatma's fast as being helpful to Pakistan, a boost to the value of property of Muslims in Delhi and it was ridiculing the Hindus and Sikhs all the world over. Some derogatory remarks were made against Mahatma Gandhi calling him a dictator who would soon meet the fate of Hitler. On the 19th January 1948 the Secretary of the Hindu Mahasabha Mr. Ashutosh Lahiri issued a pamphlet Ex. P-25 in which he repudiated the Hindus being any party to the four-point pledge and repudiated those Hindus who were parties to it.

2.13 Police reports show that the Sikhs were also unhappy about the fast which was for the protection of Muslim rights and did not do anything for the Hindus and Sikhs. Police reports also show that the Mohammedans passed resolutions at two meetings on the 19th and 23rd January 1948 recognizing the selfless services of Mahatma Gandhi.

2.14 We might go back a few days; a conspiracy was formed in Poona, Bombay etc. to murder Mahatma Gandhi in which some Maharashtrians and one Punjabi, Madanlal by name, were the participants. Gopal Godse's evidence discloses that the conspirators were many more though he does not say so in so many words. In pursuance of the objects of the conspiracy the conspirators came to Delhi by air and rail between the 17th and 19th January and took up residence at hotels and the Hindu Mahasabha Bhawan. On the 18th January 1948 some of the conspirators attended Mahatmaji's prayer meeting at Birla House at 5 P.M. That was to reconnoitre the place and the crowds. On the morning of 19th January 1948 some of them got accommodation at the Hindu Mahasabha Bhawan. The Police case was that this they got by getting a chit from Nathuram Godse in the name of his friend the Secretary of the Hindu Mahasabha Bhawan, but this fact was not established. On 19th morning the conspirators met in the Hindu Mahasabha Bhawan and in the afternoon chalked out a programme to kill Mahatma Gandhi. On the 19th January 1948 three of the conspirators Godse, Karkare and Apte went to the Birla House, took note of the Police arrangements there and surveyed the prayer ground. At 4 P.M. the same day i.e. 19th January 1948 they again came to the prayer ground at 10 P.M. five of them met at the Hindu Mahasabha Bhawan and held confabulations.

2.15 On January 20, 1948 Nathuram Godse was ill and four of them again went to the Birla House to survey the place. They returned to the Hindu Mahasabha Bhawan at 10.30 A.M. Somewhere at about mid-day tested their revolvers in the jungle behind Hindu Mahasabha Bhawan. In the afternoon they met at Marina Hotel and chalked out their final plan of action.

2.16 At 4.45 P.M. they came to the Birla House and there on the back wall Madanlal ignited a gun-cotton slab which has been called a bomb. Madanlal was arrested at the spot and on search of his person a handgrenade was recovered amongst other things. Three of them who were with Madanlal escaped in the taxi in which they had come and returned to Connaught Place. Three others who were in the prayer meeting itself also escaped after mixing with the crowd. At this stage their names and details of escape are not necessary. Their movements will be given in detail later.

2.17 The two principal conspirators N. V. Godse and Apte left the same evening by train from Delhi main station and returned to Bombay via Kanpur and Allahabad on the evening of 23rd January 1948.

2.18 The third Gopal Godse stayed the night at the Frontier Hindu Hotel and left for Bombay the next morning by the Frontier Mail i.e. on 21st January 1948. The fourth Karkare stayed in Delhi upto the afternoon of the 23rd and left Delhi on the 23rd January 1948 and by taking short distance trains and bus journeys and by breaking his journey *en route* reached Kalyan on the morning of 26th January 1948. The remaining two Badge and Shankar took the Bombay Express from Delhi Main Railway Station on the 20th January 1948 reaching Kalyan on the 22nd morning and then proceeded to Poona and reached there the same day. In this manner all the conspirators escaped from Delhi unnoticed and untraced and went back to Bombay as shown above.

2.19 On January 20, the bomb was thrown and on the 21st January morning newspapers came out with news about the bomb incident. Peculiarly enough, *The Times of India*, Ex. 106, *The Statesman*, Delhi, Ex. 106-A, *The Bombay Chronicle* of Bombay, Ex. 107 came out with prominent banner lines but *The Hindustan Times*, Ex. 106-B, gave a more prominent place and caption about Kashmir—AGREED FORMULA ON KASHMIR—and then in column Nos. 4 and 5 another caption also fairly prominent "GANDHIJI EAGER TO GO TO PAKISTAN" but in column 5 it just gave the caption in comparatively smaller letters "Bomb goes up near prayer grounds" and then instill small letters "Gandhiji did not even turn his head".

2.20 *The Times of India* gave an account of what its Special Representative learnt in regard to the incident. *The Statesman*, Delhi gave out the story that there was a formidable plot on the life of the Mahatma. A Police Inspector said, "The bomb was intended to create confusion even though it was powerful enough to kill many people. The handgrenade was apparently to be used against the Mahatma himself". The story given in the *Bombay Chronicle* of

Bombay was that the person who threw the bomb confessed that he had done so because he did not like the peace campaign of Mahatma Gandhi.

2.21 Two sets of investigations, independent of each other, were started—one at Delhi under Ch. XIV of Cr.P.C. and the other at Bombay. It is a matter of controversy under what law the latter was undertaken and whether it was an investigation at all. But without here deciding the question the Commission will call it an investigation as did Mr. Nagarvala himself in his letter Ex. 8. The course of Delhi investigation was as follows.

2.22 The First Information Report under sections 4 and 5 of Explosive Substances Act was lodged by Mr. K. N. Sahney, Magistrate, Ist Class, Karnal, wit. 25 which was recorded at the Tughlaq Road Police Station at 6-30 P.M. and the investigation started thereafter by the S.H.O. Sub-Inspector Dasondha Singh, wit. 14.

2.23 Before the First Information Report was actually recorded Madanlal was searched and a handgrenade was found on him showing his real intention as anything but innocent. He was questioned at the Birla House and was then taken to the Parliament Street Police Station where some high ranking police officers interrogated him and he is alleged to have made a statement, Ex. 6, which has given rise to a sharp controversy. But this much is uncontroversial that he gave the name of Karkare and also disclosed where he and his companions had stayed. The two places mentioned by him, i.e., Marina Hotel and the Hindu Mahasabha Bhawan were raided and in the former it was discovered that two of the conspirators stayed under assumed names of 'S' and 'M' Deshpande and they had hurriedly left. In the room where they stayed a document Ex. P-25 was found, showing their close connection with the Hindu Mahasabha which is noted in paragraph 17 of the first case diary.

2.24 On the 21st January a remand of 15 days was obtained, Madanlal was taken to the Civil Lines Police Station where he was interrogated and this interrogation continued upto the 24th January when he made a fuller statement, Ex. 1, wherein he mentioned the proprietor of the 'Hindu Rashtriya' paper as a co-conspirator but did not mention the "Agrani" or the editor.

2.25 On further enquiry it was discovered that the number of the taxi by which the culprits had arrived at Birla House and which was noted down by the witnesses was a wrong number as that was the number of a G.N.I.T. bus.

2.26 On the same day two police officers were flown to Bombay but the case diary No. 2A of their departure does not show what documents, if any, were taken by them and what exactly they were required to do in Bombay and there was no mention of a requisition required under section 54 (Ninthly) Cr.P.C.

2.27 On 23rd January, Kali Ram, a bearer of the Marina Hotel produced some clothes three of which had the marking 'N.V.G.' but it does not appear that either the Delhi Police or the Bombay Police made any use of this discovery. There is no evidence that it was ever conveyed to Bombay Police.

2.28 Interrogation continued on the following day and with the permission of the District Magistrate, one Mehta Puran Chand, Advocate, interviewed Madanlal while his interrogation was going on which naturally had to be interrupted. A copy of the full statement of Madanlal was given to Mr. U. H. Rana, D.I.G., C.I.D., Bombay on January 25, 1948, and he proceeded to Bombay the same night *via* Allahabad because flying did not suit him but surely he did not need to go *via* the Triveni, unless no accommodation in the direct train could be arranged for him. Meanwhile on the 24th the Delhi policemen who had gone to Bombay returned and on 25th they made a complaint of the treatment or mistreatment that they had received at the hands of Mr. Nagarvala and of the Bombay Police.

2.29 It is stated that special policemen were posted at important places in order to trace the culprits. The interrogation of Madanlal continued but nothing useful was discovered. On the 29th January 1948 the police discovered the taxi used for the commission of the offence and also who its driver was.

2.30 On 30th January, 1948, while the Mahatma was proceeding to the prayer meeting and had just stepped on to the prayer ground, he was shot at by Nathuram Godse who was arrested there and then and his name given then was 'Narayan Vinayak Godse'. The diary shows that he was the accomplice in the Bomb Case who was described by Madanlal as the editor of the "Rashtriya" newspaper Poona. A photograph of the assassin's pistol is attached herewith. (See next page).

2.31 The other culprits who had accompanied Nathuram Godse escaped from Delhi and subsequent investigation was carried on in Bombay under the direction of Mr. U. H. Rana by Mr. J. D. Nagarvala as the Special Additional Superintendent of Police, Delhi.

2.32 It is not necessary at this stage to trace the movements of the conspirators who escaped after the bomb was thrown. Godse and Apte the two principal conspirators had escaped to Bombay reaching there on the 23rd. They went *via* Kanpur and Allahabad. They flew back to Delhi on January 27, 1948 under assumed names and then took a train to Gwalior where they stayed for the night at Dr. Parchure's house. The next day they purchased a pistol from one Goel and returned to Delhi on the morning of the 29th and stayed at the Delhi Main Railway Station in a retiring room where they were met by Karkare. On the 30th they first practised in a jungle behind Birla Mandir "pistol shooting", reconnoitred the Birla House which they had as a matter of fact done the previous day also and Nathuram Godse committed the offence on the 30th at 5.00 p.m. after he had paid his obeisance at the statues of Shivaji Maharaja and Bajirao Peshwa.



Ex. 270 C—Photo of the pistol. (Para. No. 2.30)

2.33 Nathuram Godse was arrested at the spot as above stated but Apte and Karkare again escaped from Delhi and went back to Bombay where they were arrested on 14th February 1948 under circumstances which would indeed be romantic had the matter been not so tragic.

Bombay Inquiry

2.34 The scene now shifts to Bombay where on an information given by Prof. Jain investigation was carried on between 21st January and 30th January. This is an unfortunate chapter of opportunities missed, errors committed and of assuming exaggerated notions about oneself. After the explosion of the bomb Prof. J. C. Jain of the Ruia College got a little unnerved because Madanlal had disclosed to him before going to Delhi that he and his companions were going to murder Mahatma Gandhi which he had considered to be a mere boast though in fact he did not take the matter so lightly. But he was hesitant, dithering and failed to give this information to any authority.

2.35 On the 21st he met the Premier and the Home Minister of Bombay and made them the recipients of this vital information with a request to Mr. Morarji Desai not to disclose his name to anyone. Mr. Morarji Desai in his turn called the Deputy Commissioner of Police Mr. Nagarvala, but as he could not come at once he asked him to come to the Central Station of the B.B. & C.I. Railway from where he was leaving for Ahmedabad to give this vital information to Sardar Patel. Mr. Morarji Desai conveyed to Nagarvala the information that he had received and directed him to arrest Karkare and his associates and to watch the house of Savarkar because both these persons were mentioned by Prof. Jain to him.

2.36 Nagarvala promptly got into touch with his contacts and his informers, instructing them to locate Karkare and his associates. He learnt from Ahmednagar that Karkare was not there.

2.37 It is not necessary at this stage to give a resume of what Mr. Nagarvala did or what steps he took. But briefly stated, he learnt that one Balraj Mehta and Avtar Singh of the Sher-i-Punjab Hotel were in the conspiracy. Information from Ahmednagar was that Badge of Poona, a dealer in illicit arms, was a close associate of Karkare; and his contacts informed him that Savarkar was the real instigator of the conspiracy and his illness was feigned. Savarkar's house was kept under watch. Nagarvala's informants also told him that there were many other conspirators, about 20 Punjabis and Maharashtrians, with a large following. Efforts were made to find out the haunts of those persons. From 22nd onwards the police tried to find out the whereabouts of Karkare and Badge, particularly in Hindu Mahasabha Bhawan at Parel. Watch was kept on the Arya Pathik Ashram where two suspicious looking Punjabis were staying. They were suspected to be associates of Balraj Mehta.

2.38 Mr. Rana the D.I.G. (C.I.D) arrived in Bombay on the 27th and stayed with Mr. Nagarvala who told him of the steps he had

taken upto then and both of them had a long distance talk with Mr. Sanjevi, the D.I.B. and then gave him full details of what had been done upto then. Rana had taken with him the statement of Madanlal which he showed to Nagarvala who read one or two pages but took it back from him saying it was too long and promised to send him a copy from Poona which he never did.

2.39 After the murder when Nagarvala learnt the name of Nathuram Godse, he arrested the various suspects and interrogated Savarkar's Secretary Damle and his Bodyguard Kasar. Limaye who had been detained told the police that if Nathuram Godse was the murderer, Apte must have been with him and that they must have consulted Savarkar.

2.40 The murder of Mahatma Gandhi, who was acknowledged to be the Father of the Nation and who had not only preached but practised non-violence for four decades and who had led India to independence, produced anguish and even consternation not only amongst the leaders of public opinion and the Government of the day, but also amongst the millions who constituted the newly emerged independent Indian nation.

2.41 Everyone was anxious to know how the apostle of peace and non-violence could meet such a tragic end. And, therefore, what one may conveniently call inquiries were started both in Delhi and in Bombay which were the two places principally concerned with the tragic events culminating in the murder of the Mahatma.

2.42 In Delhi there were four inquiries: (1) an informal one on the 31st January, 1948, (2) interpellation in the Constituent Assembly on February 6, 1948, (3) trial of the accused in the Court of Judge Atma Charan, Special Judge, and (4) explanation called from the police officers who had been in charge of Mahatma Gandhi's protective measures and of the investigation after the bomb was exploded.

2.43 In Bombay similarly there were what may, for the want of a better word, be called inquiries. Including the court case which was in Delhi, there were five inquiries in Bombay: (1) interpellation in the Bombay Legislative Assembly; (2) explanation called by Mr. Kamte, Inspector General of Police, from Mr. U. H. Rana, Deputy Inspector General of Police and his explanation; (3) the trial in the Court at Delhi of Judge Atma Charan; (4) Cut Motion in the Bombay Legislative Assembly in March 1949; and (5) the explanation of Mr. J. D. Nagarvala, Deputy Commissioner of Police and what followed thereupon. These will be briefly dealt with in the following chapters.

CHAPTER III—INQUIRIES—DELHI

Index of Paragraphs

- 3.1 Meeting at Sardar Patel's house on 31-1-1948—
1st Inquiry
- 3.20 Interpellations in the Constituent Assembly
- 3.26 Third Inquiry
- 3.28 Fourth Inquiry
- 3.31 Ex. 7, note of Mr. Sanjevi as explanation
- 3.42 Mr. Rana summoned by Mr. Sanjevi, Ex. 7 contd.
- 3.49 Ex. 7 contd. Ex. 9 attached
- 3.51 Note, Ex. 7, summed up
- 3.53 Mr. Iengar's remarks
- 3.54 Letters of Mr. Nagarvala, Exs. 8 and 9.

CHAPTER III

Inquiries—Delhi

First Inquiry

3.1 The shock of Mahatma's murder and the fact that it could be committed openly in the prayer grounds in spite of the precautions taken led to an inquiry at the earliest opportunity as to where the things went wrong. This was by way of an informal meeting where the matter was discussed.

3.2 The object of this meeting, according to Mr. R. N. Bannerjee (wit. 19), was to devise measures to protect the living i.e. the Ministers and other high dignitaries. It also appears that the meeting reviewed the circumstances which led to the assassination of Gandhiji despite previous warnings and the facts disclosed by Madanlal's statement.

3.3 After the funeral, a meeting was called at a very short notice at the house of the Home Minister in the evening of 31st January, 1948. According to Mr. Bannerjee's statement before Mr. Pathak as witness No. 17, the following were present: Prime Minister Nehru, Deputy Prime Minister Sardar Patel, Mr. B. G. Kher, Premier of Bombay, Mr. Rajagopalachari, Governor of West Bengal, and Mr. Bannerjee and Mr. Sanjevi, Mr. D. W. Mehra's note Ex. 10-A dated February 1, 1948, besides these names, gave the names of Rajkumari Amrit Kaur, Mr. Morarji Desai, the Chief Commissioner and himself. A copy of this note is Ex. 10-A produced by Mr. D. W. Mehra before this Commission.

3.4 The confessional statement of Madanlal was read by Mr. Sanjevi, who also said that he had sent a copy of that statement with two police officers, who were flown to Bombay on 21st January, 1948, but the two police officers returned after two or three days and complained that the Bombay police did not take any notice of them and had asked them to return to Delhi and that they would themselves look into the matter. The confessional statement of Madanlal was then read which disclosed a conspiracy to murder Mahatma Gandhi which had been in existence for some time. In the statement, Madanlal had given names and particulars of the conspirators, two or three haunts in Bombay which were mentioned as meeting places of conspirators and Madanlal told the police, "PHIR AYEKA". From this Mr. Bannerjee understood that the conspirators would return to Delhi to kill Mahatma Gandhi. At the discussion it came out that Godse had reconnoitred the prayer ground at Birla House on the evening of the 29th, i.e., a day before the murder. It also came out at the meeting that Mr. Sanjevi gave

no information to either the Deputy Commissioner of Delhi or to Mr. Bannerjee. Mr. Bannerjee said:—

"I will put it to gross incompetency and lethargy on the part of Mr. Sanjevi that he did not care to inform either me or to remind the Bombay police as to what action they had been taking."

Mr. Sanjevi said at that meeting that he had not reminded the Bombay police after the return of the Delhi police officers sent by him. This emerged in the course of the meeting. Everyone present was in great anguish and Mr. Sanjevi admitted that he had not reminded the Bombay police.

3.5 Mr. Bannerjee was recalled before this Commission. He added that besides the gentlemen he had named before, Mr. Shankarrao Deo was also present at that meeting. The account that he gave at this hearing was that the confessional statement of Madanlal which had been recorded earlier was read out. He said:—

"This was the first intimation that we from Pandit Nehru downward got that there was a confessional statement and certain information was contained in it which if properly utilised would have resulted in the arrest of those persons who were participants in the murder of Mahatma Gandhi. In the statement, the particulars and the haunts of some of the persons who were subsequently accused and convicted of murder were given. If the police had been vigilant, it should have been possible for them to have arrested those persons."

3.6 Mr. Bannerjee added:—

"None of us knew about the particulars of this conspiracy. Mr. Sanjevi never gave us any information about it. When he was asked why he had not done so, he just said, 'he was sorry he just did not do it'. I put this due to the incompetency and lethargy of Mr. Sanjevi not to have informed or to have ordered the Bombay police to send their men here or to have reminded the Bombay police in regard to the information which was sent to them."

3.7 Mr. Bannerjee was asked by the Commission as to whether Ex. 6 or Ex. 36 the first alleged statement of Madanlal was read out or some other statement. His reply was that he could not recollect what was read out but what was read out gave more particulars about Bombay haunts and about 'PHIR AYEKA'. Commission then showed him Ex. 5, the original of which is Ex. 5-A, and he was asked if that statement was ever shown to him. He replied:—

"We never saw any papers. Some papers were in the hands of Mr. Sanjevi and he read out extracts therefrom."

He added that he understood from Mr. Sanjevi's statement that full confessional statement of Madanlal was sent to Bombay, the substance of which was that Apte and Godse must have gone back to one of their haunts in Bombay. But no such statement has been produced before the Commission.

3.8 In cross-examination by Mr. Vaidya, Mr. Bannerjee said that when they came back from the cremation of Mahatma Gandhi, a meeting was called at a very short notice where everybody was in a mournful mood, and "the Sardar asked Sanjevi what had happened and he came out with the allegation that the names had been sent to Bombay police and nothing was done there. It was that part which was emphasised by Mr. Sanjevi there". Mr. Bannerjee added that Sardar Patel was in great anguish and so were "we all but I told Sardar Patel that he could not have done anything more than to ask his police to be vigilant". Further, he said:—

"I feel it very difficult to be able to reconcile this statement of the Superintendent of Police, C.I.D., with the scene I recall of the meeting of the 31st January, 1948, at which everybody was in extreme anguish and was surprised to hear that there was a conspiracy and the names of the conspirators were disclosed in the statement of Madanlal."

Mr. Bannerjee again repeated that the words, "PHIR AYEKA", were mentioned at the meeting on the 31st January by Mr. Sanjevi. He thought it was Mr. Sanjevi but he could not say exactly who said these words. Those words did come at the meeting but he could not say for certain by whom they were said. He then added that he might have heard these words later after the meeting.

3.9 Mr. Bannerjee also said that after the 30th January, Government felt rather guilty about not having taken preventive or punitive action against the R.S.S., although in Mr. Bannerjee's opinion those who conspired to murder Mahatma Gandhi did not do so as members of the R.S.S. "An informal decision at the post-funeral meeting was that the R.S.S. should be banned immediately and secret instructions should issue to Provincial Governments the same night", but somehow or the other the news of banning leaked out and the leaders of the movement went underground. Mr. Bannerjee categorically stated that at that meeting nobody from top to the bottom knew that a statement had been made by Madanlal or what the contents of the statement were.

3.10 There is some documentary evidence to show as to when the meeting was held and what was stated by Mr. Sanjevi there, but the dates do not accord. There is a difference of a day.

3.11 In his letter, Ex. 7-A, dated February 20, 1949 to Mr. H. V. R. Iengar, Secretary to the Ministry of Home Affairs, Mr. Sanjevi said in paragraph 3 as follows:—

"I mentioned these facts briefly to H.M. and the P.M. on the night of the 1st February, 1948 at H.M.'s residence, when His Excellency the Governor-General (then Governor of West Bengal), the Premiers of U.P. and Bombay and Mr. Shankarrao Deo were also present."

And the facts were set out in the accompanying Note Ex. 7-B, which also showed the action taken in the investigation from 20th to 30th January 1948.

3.12 According to the personal diary of Miss Maniben Patel, Ex. 273, there was a meeting after the cremation on 31st January 1948 at 7-30 P.M. Those present were Rajaji, Pantji, Balasahib Kher, Mehra, Bannerjee, Shankarrao Deo, Shankar and Mr. Jairamdas Daulatram. Balasahib Kher talked on the phone to Mr. Morarji Desai at Bombay and Raja Maharaj Singh also talked from Bombay to Mr. Nehru on the phone.

3.13 In the note Ex. 7-B in paragraphs 2 and 3 are given the steps taken in regard to augmenting the police personnel. Besides the uniformed police, one Sub-Inspector, four Head Constables, and two Constables in plain clothes, armed with revolvers were deputed for the personal security of the Mahatma. Three were stationed on the pathway which led to the prayer meeting and their duty was to spot possible offenders. Uniformed police at the gate had instructions to stop all persons about whom they had any doubt.

3.14 The police officers on duty were given the descriptions of the men who were with Madanlal when the bomb had exploded and they were told to keep a sharp lookout for them. There is, however, no evidence of these officers having been of any utility whatsoever or to have done anything to prevent Godse and others like him getting near Gandhiji.

3.15 An account of this meeting is also given by Mr. M. K. Sinha, wit. 44. His statement is mere hearsay because he was not present. What he stated was that after the funeral, there was a meeting at the Home Minister's house and among those present were the Prime Minister, the Chief Minister of U.P. and several others including Mr. R. N. Bannerjee. Mr. Sinha said, "I was also told that Madanlal's confessional statement was read by Pantji and he asked Sanjevi as to why he did not arrest or arrange to get these persons who were named by Madanlal arrested". His reply was that no names had been mentioned in the statement but Pantji told him that descriptions and some addresses were mentioned and he could easily have had them arrested only if he had taken the trouble to do so.

3.16 Even though the Evidence Act does not strictly apply to proceedings before the Commission, yet the Commission does not think it right to take into account this hearsay evidence even though it may be corroborative in nature.

3.17 So this was the first inquiry, an informal one no doubt, where Sanjevi was asked as to what had happened. He produced a confessional statement of Madanlal which, according to Mr. Bannerjee, contained the names and haunts of some of the accused. According to Miss Maniben Patel, wit. 79, Sanjevi had said that he had sent a copy of the full statement made by Madanlal the substance of which was (1) that Apte and Godse must have gone back to Bombay, (2) there were two or three haunts at Bombay. That is what Mr. Bannerjee has also stated. Thus, it appears from this evidence that the question of conspiracy was first disclosed at this meeting. Sanjevi read out from the confessional statement of Madanlal but what or which that confessional statement was, is not quite clear.

from the evidence produced before this Commission. No statement of Madanlal has been produced before the Commission which comprises all that Mr. Bannerjee says was said at the meeting.

3.18 Mr. D. W. Mehra has produced before the Commission a copy of the note which was prepared by him and was presented before the high-powered meeting, Ex. 10-A. It is a copy of Ex. 10 with the note of Mr. Sanjevi Ex. 7. It sets out the increase in the number and deployment of police at the Birla House after the Bomb incident. It mentions that screening of visitors was suggested by Superintendent Bhaua to Mr. Brij Krishan Chandiwala which he would not agree to and then a similar suggestion by Mr. Mehra himself to Gandhiji was also rejected. It then gives an account of the murder and arrest of Nathuram Godse and also what statement Madanlal made on 20th January, wherein he gave only one name and there is no mention of the editor of the 'Agrani'.

3.19 Amongst what may be termed non-officials who were present at this meeting were Mr. C. Rajagopalachari, Mr. Jairamdas Daulatram, and Mr. Shankarrao Deo, who fortunately are alive but the efforts of the Commission to get them to appear before it proved fruitless because for one reason or another they did not appear and they pleaded complete forgetfulness about the incident. Thus, very valuable evidence about what explanations were given by Mr. Sanjevi remained unavailable to the Commission. But Commission well understands the position of these eminent citizens of India, who due to age and lapse of over two decades, might well have forgotten the details of what took place at that very sad and unhappy occasion.

Second Inquiry

3.20 The Members of the Constituent Assembly took the earliest opportunity to interpellate the Home Minister to elicit information as to the circumstances leading to the assassination of Mahatma Gandhi, which is shown by Ex. 142 dated February 6, 1948. In reply to Mr. Ananthasayanam Ayyangar, Sardar Patel gave details of the precautions taken prior to the bomb incident and also what was done after it. He gave the details of increase in the strength of the Police stationed at Birla House and also the number of plain clothes policemen deployed there and the instructions given to the Police. The Police, he said, considered that they should be allowed to search every stranger attending the prayer meetings but to this Gandhiji did not agree. Sardar Patel stated that he had himself pleaded with Gandhiji for allowing the Police to do their duty in regard to his protection but he was unsuccessful and that as the Police apprehended, this weak spot was successfully taken advantage of, by the assassins and Gandhiji was murdered.

3.21 In supplementary questions the Home Minister was asked as to the precautions taken to prevent the repetition of the incident, what these precautions were and whether sufficient steps were taken to protect the life of the Ministers of Government. The Home Minister replied that consistent with the wishes and inclinations of

Ministers sufficient precautionary measures had been taken. There were supplementary questions by another Hon'ble Member about Nathuram Godse and whether the Police had lost track of him. In reply the Home Minister said that after the arrest of Madanlal a copy of the statement of Madanlal was taken to Bombay C.I.D. Arrests were not made because it was considered inexpedient to do so as by so doing the other conspirators would have gone underground. Therefore, after consultation between the Bombay and the Delhi Police it was decided that for the moment no arrests should be made. The Bombay Police was on the track of the conspirators but they were not all in Bombay.

3.22 Asked whether photographs could have been procured of those persons, the reply was that all of them were not at one place and it was not possible to have photographs of people like that.

3.23 The Home Minister also stated that it was not possible for the police to take any precautions without consulting Mahatma Gandhi.

3.24 So this interpellation shows that—

(1) The police considered the search of visitors to Birla House the most efficacious form of protection to which the Mahatma was not agreeable.

(2) There was after the bomb an increase in the number of policemen stationed to guard Birla House and a detachment of troops was also stationed to guard and prevent trespassers.

(3) After the arrest of Madanlal a copy of his statement was taken by Delhi Police to Bombay C.I.D.

(4) After consultations between the Bombay Police and Delhi Police it was decided not to make arrests for the moment, in order to prevent the conspirators going underground.

(5) Bombay Police were on the track of the conspirators.

(6) All the conspirators were not at one place and, therefore, it was not possible to get their photographs.

3.25 Now there are inaccuracies in these answers and in one particular it is a question for determination as to what document was taken by the Delhi Police officers to the Bombay C.I.D. The Commission has little or no evidence to show that the Police knew that the group of conspirators was at one place or different places or where they individually or collectively were. As a matter of fact the police had not been able to establish the identity of the conspirators till after the murder.

Third Inquiry

3.26 Then there was the trial of the accused for conspiracy to murder Mahatma Gandhi in the Court of Judge Atma Charan, Special Judge. An appeal against this judgment was taken to the East Punjab High Court where it was heard by a Full Bench who

upheld the judgment except that two of the convicted persons i.e. Dr. Parchure and Shankar Kistayya were acquitted. This has been dealt with in the Chapter "Scope of the Inquiry".

3.27 The trial judge passed adverse remarks against the Police with which the Appeal Court disagreed and exonerated the Police of all blame.

Fourth Inquiry

3.28 After the adverse remarks made against the police by Judge Atma Charan, the Government of India called for what may for the lack of a better word, be called explanation of the Investigating Police officers regarding those remarks. The replies show the course of investigation of the Bomb Case both in Delhi and in Bombay and what the police had to say in reply to the learned judge's adverse comments. Commission will first deal with Mr. Sanjevi's explanation and then with what Mr. Nagarvala had to say as to the investigational processes in Bombay.

3.29 A document of some importance produced before the Commission is Ex. 7 which is a note by the then Director of Intelligence Bureau, the late Mr. Sanjevi, dated February 20, 1949. It was submitted to Government of India for the information of the Home Minister and was intended to be Mr. Sanjevi's explanation in reply to Judge Atma Charan's strictures against the Police. It contains some useful information and is more or less a contemporary record of events but because of its exculpatory trends in favour of the Delhi Police and opprobrious slant against the Bombay Police, it requires a more careful scrutiny and critical analysis than the opinion of so highly placed a police official as the D.I.B. would have merited.

3.30 A short resume of the document would show how Mr. Sanjevi viewed the investigation into the Birla House Bomb Case and what, according to him, the police at Delhi and Bombay had respectively done, what investigation they carried out, and also what information was conveyed to him by the officers of the two respective forces.

3.31 The Ex. 7 is divided into 11 paragraphs each one of which is important.

3.32 In the first paragraph Mr. Sanjevi has set out the facts of the occurrence on the evening of January 20, 1948; and explosion of the bomb by Madanlal Pahwa and his arrest at the spot and escape of his companions; recovery of the handgrenade from his possession; his interrogation and his statement on the 20th January mentioning Karkare and editor of the Agrani and giving description of others; formation of the conspiracy at Bombay; how the conspirators came to Delhi, where they stayed and what they did. Therefore, the Delhi Police had a fair idea of the formation of the conspiracy, of the principal offenders and sufficient material to proceed against the editor of the Agrani and thus to crack the

conspiracy and apprehend the conspirators. And if the Bombay Police was informed, it should have been easier still for them.

3.33 The course of investigation at Delhi is then given and also their making inquiries at Jullundur where they drew a blank.

3.34 It then states that Mr. Sanjevi himself visited the scene of occurrence and made inquiries from the Police Superintendent of New Delhi. The next day he ordered 2 Police officers to fly to Bombay "to contact Mr. Nagarvala, Deputy Commissioner of Police Bombay, and Rao Sahib Gurtu, A.D.I.G. (C.I.D.) Poona". They took with them Ex. 5-A which officers of the Law Commission, after some effort, found with the original case diary of the Bomb Case lying somewhere in the Delhi District Record Room.

3.35 The Delhi Police continued with its investigation and ordered its C.I.D. to be on the look-out for the conspirators whose descriptions were given in a document Ex. 244 which is a bundle of corrections, contradictory descriptions and a mere look at it will show its worthlessness.

3.36 Paragraph 4 sets out the protective measures taken at Birla House. It shows that the previous strength of the guard consisting of a Head Constable and 4 Constables which were placed at Birla House in September, 1947, was increased after the throwing of the Bomb to 1 Assistant Sub-Inspector, 2 Head Constables and 16 Foot Constables. In addition, a plain clothes staff of 1 Sub-Inspector, 4 Head Constables and 2 Constables, all armed with revolvers, were also detailed for protective duty. The note then mentions the precautions in the nature of search of persons attending the prayer meetings which were sought to be taken, but could not be taken because of the objection of Mahatma Gandhi and by those who were round about him in his party. A copy of the note showing the protective measures which had been taken at Birla House was attached, annexure VI, Ex. 7-B.

3.37 The note then proceeds to state the steps taken at Bombay. It mentions that the two officers with all the information furnished to the Delhi Police by Madanlal flew to Bombay and stayed at the Universal National Restaurant and met Mr. Nagarvala the next day and gave him all the information that they possessed. Mr. Nagarvala told them that he also had received information about the case and had deputed special men to locate the wanted persons. He warned them that nobody should know about their presence in Bombay and so they should not stay in the city because if the suspected persons came to know of their arrival the whole plan of their arrests would be "ruined". He ordered the police officers to go about in *mufti*. The two officers again met Mr. Nagarvala at his office. They gave him the facts of the case and also showed him the note on Madanlal's statement from which Mr. Nagarvala took extracts. "The Delhi Police officers told him that one of the accused was the editor of the 'Agrani' or the 'Hindu Rashtriya' newspaper. The description of all the accused persons as disclosed by Madanlal,

was communicated to him". The Police officers again met Mr. Nagarvala and he told them, "his information was that there were more persons in this conspiracy. He said that there were about 20 persons. He added that he had made special arrangements for Karkare in Bombay, Poona and Ahmednagar. About the other persons connected with this case, he said that he had located three or four". He also disclosed to them the scheme to locate all the offenders and to carry out their simultaneous arrests, his reason being that if only a few were arrested, the others would go underground. He also told them that he would accompany them to Ahmednagar as soon as he got the necessary information and asked one of his Inspectors to arrange for their lodging so that nobody should know about their presence. He also told them not to give their Delhi address at the hotel, and that he would consult his Home Minister and will take further action against the accused. The same day again they went to the Bombay C.I.D. office where they were told by an Inspector that their presence was no longer required. The Inspector also told them that Bombay officers had been deputed to arrest the other suspects who had not till then been located. In regard to Karkare and the editor of the 'Agrani' or 'Hindu Rashtriya', he told them that an Inspector from Ahmednagar was arriving the next day at Bombay, and they would then arrange for their arrest".

3.38 This portion of the note thus shows that—

- (a) Nagarvala had specially arranged for the arrest of Karkare in Bombay, Ahmednagar and Poona.
- (b) The information of locating 3 or 4 other persons connected with the case seems puzzling because there were 6 persons mentioned by Madanlal and location of 3 or 4 would be solving the mystery of the conspiracy completely.
- (c) The statement, that an Inspector was coming the next day from Ahmednagar and they would arrange to arrest Karkare and editor of the 'Agrani', appears to be erroneous. Why should there have been an Inspector from Ahmednagar to arrest the editor of the 'Agrani' which was a Poona paper.

3.39 The next day, i.e., 23rd January, 1948, so the note says, the Delhi Police officers went to the Deputy Commissioner's office but could not meet him. A C.I.D. Inspector told them that the Inspector from Ahmednagar had arrived and he had been told to search for the editor of the 'Agrani' or the 'Hindu Rashtriya', which again appears to be a wrong statement or misunderstanding by the Delhi officers. Deputy Superintendent Jaswant Singh then asked for information regarding Karkare and his associates and the Bombay C.I.D. Inspector gave him the following names as being Karkare's associates:—

- (i) Badge of Poona.
- (ii) Autar Singh, Punjabi Sikh of Amritsar.

(iii) Talwar of Karachi, then in Bombay.

(iv) Balraj Mehta of Lahore, then in Shivaji Park in Bombay.

3.40 Mr. Nagarvala who arrived at about 12.30 P.M. told the Police officers that he was doing his best to arrest the wanted persons and that the presence of the Delhi Police was no longer required at Bombay and he ordered them to return. "On this, Mr. Jaswant Singh, Deputy Superintendent of Police, Delhi, drew Mr. Nagarvala's attention to Madanlal's statement regarding Karkare and the editor of the 'Agrani' or the 'Hindu Rashtriya' and asked that as soon as they were arrested, they should be sent to Delhi. The Delhi officers handed over to the C.I.D. Inspector a brief note on the case, with the names and the description of the accused wanted, as far as known then". Of the handing over of this note there is no evidence except this cryptic reference. No questions were put to Mr. Nagarvala although he was questioned at length and was cross-examined for a good few days. In a subsequent affidavit in reply to Commission's Questionnaire, Mr. Nagarvala denied any such document having been given to his officers.

3.41 The two Delhi Police officers returned to Delhi on the 24th and saw the Superintendent of Police, New Delhi, and the Superintendent of Police, C.I.D., and gave them an account of all that had happened in Bombay. Copies of the diaries of the 21st, 22nd and 23rd January, 1948, are attached to this note. They are marked as annexure VIII and Ex. 2, 3 and 4. Copies of these documents were sent to Mr. V. Shankar, Private Secretary of the Home Minister. The note expresses surprise at the mystery which was associated with the presence of the Delhi Police officers at Bombay, a complaint about which was made to Mr. Sanjevi on the 25th morning. Normally, it says, the police officers should not have been sent back to Delhi but should have been kept there to assist the Bombay Police in the investigation of the case. It may be noted that in his statement, Rai Sahib Rikhikesh, Superintendent of Police, C.I.D., stated that these officers stayed in Bombay too long and should have returned earlier.

3.42 The Deputy Inspector General of Police, (C.I.D.), Poona, who was still in Delhi, was summoned by Mr. Sanjevi in the presence of the Superintendent of C.I.D., Delhi. To the D.I.G. was given the report of the two Delhi Police officers and his attention was drawn to the importance of locating the absconding accused. A copy of the detailed statement of Madanlal was given to him. Both he and Mr. Sanjevi went over it, and the D.I.G. was asked to fly to Bombay but he did not, as he could not. If he could not fly, then one should have thought that another officer could have been sent by air to deliver the statement to Nagarvala. He left by train *via* Allahabad and reached Bombay on the 27th evening.

3.43 This acquiescence in this circuitous route is corroborative of Mr. Rana's statement that no one expected the conspirators to strike so soon, certainly not Mr. Sanjevi.

3.44 The note then states that that evening (of 27th), the D.I.G. talked to Mr. Sanjevi on the telephone and a gist of the conversation is given in paragraph 8 which is as follows:—

"On the 27th evening Mr. Rana rang me up from Bombay and told me that he had seen Mr. Nagarvala, and that Mr. Nagarvala would give me an explanation for what had happened to the two Delhi Police officers at Bombay. Mr. Nagarvala told me that he had good reason for not allowing the Delhi Police officers to move about freely in Bombay. He told me of the information that he and the Bombay Police had of a conspiracy to kidnap Mahatma Gandhi. He told me that it was a very big organisation, with about 20 principal conspirators, each assisted by 20 persons and in possession of considerable quantities of firearms and other lethal weapons. I asked him about the absconding accused whose names or descriptions were given to the Delhi Police by Madanlal. Mr. Nagarvala told me that he would send a detailed note on the investigation made at Bombay City and elsewhere in the Province by air the next day."

This portion of the note is not quite clear. It does not show what was said to Mr. Sanjevi by Mr. Rana and which portion was by Mr. Nagarvala. But one fact stated in this paragraph is of great importance. Mr. Sanjevi asked Mr. Nagarvala about the absconding accused whose names or descriptions were given to the Delhi Police by Madanlal. But this note does not say that those names or descriptions had been conveyed to Nagarvala by the two officers who were flown to Bombay. Nor does it say what reply he gave to that query except that he would write a detailed letter. Significantly, there is nothing to show whether Mr. Sanjevi pressed Nagarvala to tell him if he had done anything about the suspects whose names or descriptions were given to him by Delhi Police or showed any anxiety about their arrest or even tried to find out who they were or whether they had been located at all. On the other hand, Sardar Patel's replies in the Constituent Assembly made on February 6, 1948, show that the Bombay and Delhi Police were in accord on the steps taken and on the question of the proposal to make simultaneous arrests to prevent some of the accused going underground.

3.45 The note then goes on to say that Nagarvala did not write to Mr. Sanjevi. On the 30th he sent a letter which reached Mr. Sanjevi on February 3, and a copy of that letter was received through an officer who came by air from Bombay on 1st February which is annexure I, Ex. 8. But these letters make no mention of any query by Mr. Sanjevi about persons disclosed to Nagarvala by Delhi Police nor were they a reply to what Mr. Sanjevi says he asked Mr. Nagarvala.

3.46 In the letter received by Mr. Sanjevi, according to the note, the line of action by the Bombay Police was indicated which was that there was a gang out to kidnap Mahatma Gandhi and of the names mentioned in that letter there were those of Karkare and Badge which were also concerned with the statement of Madanlal.

which does not seem to be correct as Badge's name is not there. Significantly the letters did not mention the editor of the 'Agrani' or 'Hindu Rashtriya'. The note, however, emphasised that the officers had repeatedly given information of all the names and descriptions mentioned by Madanlal. It then sets out that Mr. Rana agreed with Mr. Nagarvala that the arrest of Karkare and Badge will not arouse any suspicion and the arrests of others could wait till all the information collected by the Delhi Police, the provincial Poona C.I.D. and the Bombay City Police were pooled together and that the Home Minister of Bombay had entrusted the investigation of the case to Mr. Nagarvala.

3.47 The note makes a grievance that the Bombay police did not consider it necessary to immediately pursue the information given by the Delhi police regarding the editor of the 'Hindu Rashtriya' (Godse) and the other accused mentioned by Madanlal, who should have been arrested without delay. This grievance would be justified if it could be established that the editor was disclosed in the first statement or was given to Nagarvala by the Delhi Police officers.

3.48 The note then laments that even 10 days after the Delhi Police officers had carried vital information about the case, the Bombay Police had no more information than about the kidnapping of Mahatma Gandhi, and it did not act on the information given by the two Delhi Police officers. It complains that Rana had a copy of the full statement of Madanlal and had been told of the serious nature of the statement and yet nothing had been done. The responsibility for investigation in Bombay was of the Bombay Police and the Delhi Police had to depend on the investigation and reports of Bombay Police. The Delhi Police did not receive between the 21st and 30th January "any confirmation of Madanlal's statement" from the Bombay Police. The note further said—

"The information conveyed by the Delhi Police to the Bombay Police clearly indicated a conspiracy to murder and the identity of some of the accused. The information conveyed called for investigation in Bombay City and Province, and whatever was found in the course of that investigation should have been conveyed to the Delhi Police. This was not done except for the telephone message to me on the 27th night when information of a conspiracy to kidnap Mahatma Ji was mentioned."

Nagarvala's letter was a clear proof that the Delhi police were not told of the exact identity of the editor of the 'Hindu Rashtriya' paper or of his associates excepting Badge. But at that stage Mr. Sanjevi did nothing to ask Nagarvala about it. Perhaps the tragedy, which had ensured was too great that it must have left Mr. Sanjevi wholly stunned to think of giving much attention to Nagarvala's letter or its contents whether, they were omissions or commissions.

3.49 Mr. Sanjevi also attached to his note a copy of a demi-official letter dated the 31st January which was the day after the assassination. This is annexure II, Ex. 9. The note then sets out the contents

of this letter and the information which Prof. Jain had given to the authorities in Bombay. The note expresses surprise that in spite of Madanlal's statement and Prof. Jain's information the Bombay authorities were working on the theory of an attempt to kidnap Mahatma Gandhi. It also protested against the accusation that the Delhi Police had been won over by the gang of kidnappers. But there is nothing to show that Mr. Sanjevi at any stage told the Bombay Police about their lethargy, inattentiveness or carelessness or gave them a bit of his mind about the absurdity of the kidnapping theory.

3.50 The note finally said—

"11. It is now definitely known that from the 23rd to the 28th January, Godse was in Bombay. He flew from the Bombay aerodrome to Delhi on the 28th morning. From the 22nd to the 28th January was a long enough period for the Bombay Police to have known who the editor of the 'Agrani' or the 'Hindu Rashtriya' was. As long as the Delhi Police did not have full information in regard to the identity and correct description of this person, they could not possibly spot him when he arrived in Delhi. He had completely changed his clothes, and on the 30th evening, was wearing a military khaki jacket, and went into the prayer grounds with the large crowds that congregated there. The Delhi Police had not, in the least, relaxed the protective measures at Birla House. Mr. Mehra's note sets out very clearly what precautions and measures were undertaken. As long as the Police were not in a position to search visitors to the prayer meetings, the Police on duty at the Birla House on the 30th could not be blamed for not spotting one of the visitors who had carried a small pistol hidden on him. The Police were prevented from searching visitors. In these circumstances, the Delhi Police did all that was possible. In his observations the Judge has, unfortunately, not distinguished between the Delhi and the Bombay Police. He was not aware of the real position. He did not know that the Bombay Police had not taken all the action necessary on the information conveyed from Delhi. Even on the evidence that he had before him, his observations against the Delhi Police cannot be justified."

3.51 This is the case which was presented to the Ministry of Home Affairs by the Delhi Police through Mr. Sanjevi. Some of the expressions used in the note and some of the sentences employed have a very familiar mien and are not far different from the translation of the Delhi Police diaries of Deputy Superintendent Jaswant Singh i.e., Nos. 3-A and 4-A, which perhaps formed the basis of the note if not its sole inspiration. The note may be summed up as follows:—

- (i) After the arrest of Madanlal, a statement, Ex. 6, annexure III, was made by Madanlal on the night between 20th and 21st January which disclosed a conspiracy to murder Mahatma Gandhi.

- (ii) In the statement of Madanlal the name of Karkare, proprietor of a hotel at Ahmednagar, the editor or proprietor of newspaper 'Hindu Rashtriya' or the 'Agrani', a Maratha looking like a Sikh, a man called 'Maharaj' and two other youth were mentioned.
- (iii) The statement disclosed the places where Madanlal and his associates had been staying and as a consequence of this disclosure vigorous combing of the city was carried out but it was found that the associates had already left.
- (iv) A description of the absconders was also furnished to the police at Jullundur.
- (v) Two officers of the Delhi Police were flown to Bombay who had full instructions and a brief note containing the facts of the case ascertained upto that time.
- (vi) The description of these persons mentioned by Madanlal was circulated to the Delhi C.I.D.
- (vii) Protective measures taken at Birla House were strengthened by increasing the number of uniformed policemen and plain clothes policemen.
- (viii) The proposal to search persons going to the prayer meetings were not agreed to by Mahatma Gandhi and those round about him, i.e., his Secretaries, etc.,
- (ix) All the information which the Delhi Police had upto that time was conveyed to Mr. Nagarvala on the 22nd. The note which had been sent to Bombay was shown to Nagarvala and the Delhi Police gave him full facts of the case and mentioned that one of the accused was the editor of 'Agrani' or the 'Hindu Rashtriya' newspaper and the description of other persons as given by Madanlal was communicated to him. He took an extract from the note sent to him and returned the note to the Delhi policemen.
- (x) Nagarvala told them that he had located 3 or 4 persons and that he was not making any arrests lest the others might go underground.
- (xi) Nagarvala told those policemen not to stay at the Hotel where they were staying but to shift to another place and they should move about in *mufti*. An Inspector agreed to put the two officers up.
- (xii) On 23rd January, 1948 at 12-00 noon a C.I.D. Inspector told the Delhi Police officers that an Inspector from Ahmednagar had arrived and he was told to search for the editor of the 'Agrani' or the 'Hindu Rashtriya'. The Delhi Police officers asked for information regarding Karkare and his associates and the Inspector gave the four names, Badge, Autar Singh, Talwar and Balraj Mehta, whose names had already been set out.

- (xiii) At 12-30 p.m. Mr. Nagarvala arrived and he told the Delhi Police that he was trying his level best and that their presence was no longer required at Bombay and they should return to Delhi. The Delhi Police officers again drew the attention of Nagarvala to the statement of Madanlal regarding Karkare and the editor of the 'Agrani' and asked him to get them apprehended and send them to Delhi as soon as possible.
- (xiv) The Delhi Police officers handed over to the C.I.D. Inspector a brief note on the case, a matter on which no questions were put by the Delhi Police to any of the Bombay Police witnesses.
- (xv) On their return the Delhi Police officers apprised their Superintendents of Police of what had happened at Bombay, and copies of their Police diaries were sent to Mr. Shankar on 18th February, 1948.
- (xvi) On the 25th morning the two Superintendents of Police of Delhi reported the matter to Mr. Sanjevi whose reaction was that the police officers should have been kept on in Bombay to assist the Bombay Police in the investigation there.
- (xvii) Consequently, Mr. Sanjevi spoke to Mr. Rana and complained to him about the treatment which was meted out to the Delhi Police officers.
- (xviii) A copy of the fuller statement of Madanlal was given to Rana. He was asked to fly to Bombay but he could not do so, and therefore he went by train and arrived at Bombay on the 27th afternoon.
- (xix) Paragraph 8 sets out an account of the telephonic conversation which took place between Rana and Nagarvala on the one side and Mr. Sanjevi on the other.
- (xx) The letter of Nagarvala reached Mr. Sanjevi on the 3rd February which purported to have been written on 30th January, whereas he had promised to write on the 27th. A copy of that letter was brought by the Bombay Police officer which has also been set out. Both the letters highlight the theory of kidnapping Mahatma Gandhi and mentioned the names of only Karkare and Badge and did not even mention the editor of the 'Agrani' or the 'Hindu Rashtriya' or of the full information including names and descriptions given by Madanlal which had been conveyed to Nagarvala, and it also mentioned that Rana agreed with what Nagarvala had done and that the investigation in Bombay, as far as the Province of Bombay was concerned, had been entrusted to Nagarvala by the Home Minister.
- (xxi) It is clear that the Bombay Police did not consider it necessary to pursue the information given by the Delhi Police in regard to the editor of the 'Hindu Rashtriya' and the other accused mentioned by Madanlal.

(xxii) The Bombay police had no other information but that there was a conspiracy to kidnap Mahatma Gandhi and that was in spite of their having worked on the case for 10 days.

(xxiii) The note emphasises that the Delhi police had conveyed to the Bombay police that there was a conspiracy to murder Mahatma Gandhi and also had conveyed the identity of the accused to them and that Nagarvala did not convey to the Delhi police the exact identity of the editor of the 'Hindu Rashtriya' paper or of his associates except Badge.

(xxiv) Lastly, Godse was in Bombay between 23rd January and 28th January. He flew from there on the 28th (which is wrong; he flew on the 27th). The Bombay police should have discovered by then who the editor of the 'Agrani' or the 'Hindu Rashtriya' was and should have taken vigorous measures to apprehend him. The Delhi police were not in a position to arrest anyone of them as they did not have his identity or the correct description and when he committed the murder he had changed his dress.

3.52 In short the note accepts unhesitatingly the version given to Mr. Sanjevi by the Delhi police the most important parts of which are—

- (1) Madanlal made a statement on the 20th January giving full descriptions of his associates, the name of Karkare and mentioned the editor of the 'Hindu Rashtriya' or the 'Agrani'.
- (2) This information was sent to Bombay police who did nothing in the matter and instead embarked on a fantastic theory of a conspiracy to kidnap Mahatma Gandhi.
- (3) The Delhi Police had the descriptions of the conspirators given by Madanlal which had been relayed to Jullundur police and had also been given to the Bombay police but the latter did absolutely nothing in the matter.
- (4) Rana had been emphatically told not to sleep over the matter but he also did nothing.
- (5) Although Godse and Apte were in Bombay between the 23rd and "28th January" no attempt was made to locate or arrest him or his other co-conspirators.
- (6) Mr. Sanjevi threw all the blame on the Bombay police.

Mr. Sanjevi is unfortunately dead and this is the only record of what he did or did not do in regard to Mahatma Gandhi's life and safety.

3.53 Out of the remarks of Mr. H. V. R. Iengar, Secretary of the Ministry of Home Affairs after the receipt of the explanation from

Mr. Sanjevi, Ex. 7, and of Mr. Nagarvala, Ex. 14, paragraphs 3, 4 and 5 are important and they are as follows:—

"3. Secondly, while it is clear that the Bombay Police took all possible steps to arrest Karkare and Badge, they do not appear to have taken any notice of Godse. Admittedly, his name was not mentioned in Madanlal's statement but there was a description of him as the editor of the 'Hindu Rashtriya' or the 'Agrani'. According to D.I.B.'s report the investigating officers from Delhi took with them to Bombay on the 21st January a statement (Annexure V to D.I.B.'s report—Slip "T") which mentioned the editor of this paper. Mr. Nagarvala says that these officers did not give him any information other than that they wanted Karkare. Here is a discrepancy which cannot be reconciled without further examination.

4. I have put to the D.I.B. the view that as soon as it became clear that there was a conspiracy among certain Maharashtra Brahmins from Poona, Ahmednagar and the "neighbourhood to commit assassination, plain clothesmen from that part of the Bombay Province should have been summoned to Delhi, on the chance that they might have been able to identify these persons if they came to Birla House. Mr. Sanjevi says that as the Bombay Police did not take the idea of a conspiracy to assassinate very seriously, the responsibility was really theirs. Personally I do not accept this view and that that there was a failure in Delhi to insist on this precaution. It may not have been successful in preventing the assassination, but it was certainly worth trying.

5. I think the Bombay Police are to blame more seriously because they refused to take the idea of a conspiracy to assassinate seriously, although every rule of commonsense pointed in that direction."

Two letters of Mr. J. D. Nagarvala

3.54. The two letters of Mr. Nagarvala mentioned in the note, Ex. 7, are annexures 1 and 2, Exs. 8 and 9, dated January 30, 1948 and January 31, 1948, respectively—one on the day when Mahatma Gandhi was murdered, and the other on the day following.

3.55 The first letter shows that Madanlal's statement in the Press showing that "he had come from Bombay" led to the initiation of investigations in Bombay. In the course of preliminary investigations names of Balraj Mehta, Karkare, Talwar, Badge, Autar Singh Chavan, and Somnath Kapoor transpired of whom Autar Singh and Chavan were under detention. Balraj had been identified and a trial put on him. Karkare and Badge were the two Maharashtrian companions of Balraj and Somnath Kapoor who were both Punjabis. Badge had been seen in Ahmednagar three days earlier i.e., on the 27th, and arrangements had been made to bring informants from Ahmednagar to Bombay who knew both Karkare and Badge, the object being to get them (Badge and Karkare) identified and to arrest them. Karkare's rendezvous in Bombay was known to the Police

and if he came to Bombay he would be arrested but Talwar had not been identified and inquiries were going on.

3.56 From the investigation it appeared that there were 21 Punjabis and Maharashtrians in the conspiracy and they had 20 workers under each one of them. The object of the gang was to drive out Muslims from the Indian Dominion. With that object they had collected arms and ammunition and it was also learnt that Col. Mohan Singh of the I.N.A. had organised the gang and he had the support of the Akali leader, Master Tara Singh. But the information had not yet been corroborated. There was also a suggestion that one of the Sikh refugees had been sent by the gang to the Speaker of the Uttar Pradesh Assembly for further consultations as to their plan. The opinion amongst the members of the gang was that it was easy to win over the Delhi Police and their object was to kidnap Gandhiji. But the letter made it clear that this was only an information which have been collected but they had yet to see if it was correct. Nobody had been arrested but a fair amount of progress had been made in the investigation.

3.57 The general policy which Nagarvala proposed to follow was (and Mr. Rana agreed with him) that they might arrest Karkare and Badge which was not likely to rouse any suspicion because Karkare had been named by Madanlal and Badge was always with Karkare and they were known by the police to be good friends. Mr. Rana agreed with Nagarvala that arrests of others should wait till the information collected by the Delhi Police, Poona Provincial C.I.D. and the Bombay City C.I.D. was pooled together. The Home Minister of Bombay and Mr. Rana had entrusted the investigation of the case to him (Nagarvala) for the Province of Bombay and Nagarvala was hoping to produce concrete results.

3.58 The letter of the 31st said that Nagarvala had arrested Balraj Mehta, Somnath Kapoor, Kasar—the bodyguard of Savarkar—and Damle, his Secretary. It had also transpired that Godse had seen Savarkar along with one Apte on the eve of their departure to Delhi. Kasar and Damle had not stated what conversation these two had with Savarkar during their 40 minutes interview but they had admitted that these two had access to the house of Savarkar without any restriction. If Madanlal was brought to Bombay, they would be able to “drag out Madanlal and get all facts and details out of him”. He had also consulted the Home Minister and the Commissioner of Police and they agreed that Madanlal should be brought to Bombay and that would help the investigation in Bombay.

3.59 Badge had been arrested by the Poona Police. The letter then mentions the tense 24 hours through which Bombay had passed. Savarkar's house and other houses of Hindu Mahasabha leaders were attacked by mobs with terrific fury and the only safe place for those leaders was the police lock-up. Savarkar's house had been searched and all available records of Hindu Mahasabha had been attached and inquiries were in progress. As the copy of the previous letter sent by Nagarvala had not been received by Mr. Sanjevi, he enclosed a copy of that letter along with this one.

3.60 The first letter requires a careful analysis and scrutiny.

- (1) It shows that it was written in pursuance of the conversation which Nagarvala had with Mr. Sanjevi on January 27, 1948.
- (2) That after the statement of Madanlal appeared in the Press about his being from Bombay, investigations were taken up. There is no mention of either the orders of Mr. Morarji Desai or of what Jain had told Mr. Desai.
- (3) It does not specifically mention any information having been given to Nagarvala by the Delhi Police officers.
- (4) It does mention Madanlal's statement wherein Karkare was named.
- (5) It mentions that Karkare and Badge were two Maharashtrian companions of Balraj and Somnath Kapoor; and the former two were good friends.
- (6) It then states that Badge was seen at Ahmednagar about 27th January but he had left that place and that two informants had been called from Ahmednagar who would identify and help in the arrest of Karkare and Badge. Now if badge belonged to Poona and Karkare to Ahmednagar, even if they were friends, one would have expected that informants would be called from Poona also.
- (7) The letter mentions a large number of Punjabis and Maharashtrians being in the conspiracy which was being organised by Col. Mohan Singh of the I.N.A.

This gentleman was examined by the Commission (wit. 86) and he denied any knowledge of this gang and it is difficult to imagine that Col. Mohan Singh would be a party to encouraging either the assassination or the kidnapping of Mahatma Gandhi and it would be still more astonishing if the then Speaker of the Uttar Pradesh Assembly could be persuaded to join the plan. Even if the objective was eviction of Mohammedans, the Speaker was unlikely to give his blessings to any such action.

- (8) Although the letter mentions that the plan was to arrest Karkare and Badge, there is no indication as to what tangible steps had been taken to carry out the plan.
- (9) The most important omission is the non-mention of either the editor or the proprietor of the 'Agrani' or the 'Hindu Rashtra' because that seems to have been emphasised again and again in the note of Mr. Sanjevi. This would show that either these persons were never mentioned till then or Nagarvala was deliberately omitting them. The latter possibility appears unlikely in the circumstances.
- (10) There is no indication in the note that in the telephonic talk with Nagarvala Mr. Sanjevi mentioned either of these two persons. All he says in the note is, "I asked him

about the absconding accused whose names or descriptions were given to the Delhi Police by Madanlal and Nagarvala promised to send a detailed note". One should have imagined that if the editor of this newspaper had been mentioned, Mr. Sanjevi would have made pointed inquiries about the editor and/or the proprietor.

- (11) Further, there is nothing to indicate in this note, Ex. 7, that when Nagarvala mentioned the conspiracy to kidnap Mahatma Gandhi, Mr. Sanjevi ticked him off or told him that the very theory or idea was absurd.

Commission has been unable to discover any reason why Mr. Nagarvala in his letter made the Press report of Madanlal's statement the basis of his investigation rather than the information or the order given to him by Mr. Morarji Desai, the factum of which is not denied and was accepted both by the trial court as well as by the High Court in the Conspiracy Case. Unfortunately, this matter was not put to Mr. Nagarvala before the Commission.

- (12) The omission of reference to names, descriptions, avocations or places of residence of Madanlal's co-conspirators has remained unexplained.
- (13) The letter of the 30th by Nagarvala to Mr. Sanjevi was top secret and there could not have been any inherent danger in disclosing to Mr. Sanjevi the factum of information given by Mr. Morarji Desai or the order he passed.

CHAPTER IV—INQUIRIES—BOMBAY

Index of Paragraphs

- 4.8 First Inquiry
Assembly Interpellations.
- 4.10-23 Second Inquiry—
Mr. Kamte's letters and
Mr. Rana's replies
- 4.24 Fourth Inquiry—
Assembly debate
- 4.27 Mr. Nagarvala's explanation

CHAPTER IV

Inquiries—Bombay

4.1 In Bombay there were four inquiries into the causes of Gandhi murder and what steps were taken by the Government of Bombay to prevent the catastrophe.

4.2 (1) Soon after the murder of Mahatma Gandhi, there was interpellation in the Bombay Legislative Assembly in which certain questions were given notice of but actually they were withdrawn but there is some material to show as to what was the position of the Government at that time.

4.3 (2) Mr. Kamte, who was Inspector General of Police in Bombay Province, started an inquiry by writing to Mr. U. H. Rana, D.I.G., C.I.D., Poona, and that correspondence shows what Mr. Kamte wanted to know; what enquiries he made from Mr. Rana; and what replies Mr. Rana gave.

4.4 (3) In the Bombay Legislative Assembly, there was a Cut Motion and the matter of Mahatma Gandhi's murder was discussed. Mr. Morarji Desai there made a statement which may be taken to be the position of the Government of Bombay at that time.

4.5 (4) After strictures were passed by the trial judge, Judge Atma Charan in his judgment, the Government of India through the Government of Bombay asked for the explanation of the Bombay Police officers in regard to those strictures. Mr. Nagarvala gave his explanation (Ex. 14) on which there were certain notings in the Bombay Secretariat, Ex. 168. That explanation came without any remarks from the Bombay Government to the Government of India and was considered by the Government of India upon which and upon the explanation of the Delhi Police there were combined notings by Mr. H. V. R. Iengar, Home Secretary—Ex. 7-C i.e. on the explanation of Mr. Sanjevi, Ex 7, and on the explanation of Mr. Nagarvala, Ex. 14. The views of the Government of India were these which may briefly be stated.

4.6 Mr. Iengar made two points :

- (1) That it was surprising that in spite of the statement of Madanlal and the information given by Prof. Jain, the Bombay Police should have hesitated to accept the theory of conspiracy to murder and should have given credence to the theory of a conspiracy to kidnap Mahatma Gandhi.
- (2) That the Bombay Police took all possible steps to arrest Karkare and Badge but took no notice of Godse whose description as editor had been given in Madanlal's statement as shown by Annexure 5 (which is Ex. 5-A). He

noticed the denial of Mr. Nagarvala about any information other than that about Karkare. He also noticed that as the conspirators were Maharashtrians plain clothes policemen from that part of Bombay Province should have been summoned to Delhi. He did not accept the view that the responsibility was of the Bombay Police because of their failure to take notice of the theory to murder but the Bombay Police were more to blame for not taking a commonsense view of murder being the object of the conspiracy. He also noticed the most controversial part as to the identity of the editor of the Agrani and again blamed the Bombay Police for not taking the conspiracy to murder seriously.

4.7 Sardar Patel agreed (Ex. 7-E) that plain clothes policemen from Bombay should have been summoned and that it was a mistake to send a Deputy Superintendent of Police to Bombay. The matter was sent to the Prime Minister and his endorsement is dated April 4, 1949. The notings in the Government of India Secretariat and in the Bombay Government Secretariat will be discussed at greater length under the heading Ex. 5-A.

First Inquiry

4.8 The first inquiry which was held in Bombay was by way of notice of a starred question No. 864 by Mr. A. J. Doddameti in the Bombay Legislative Assembly. This was on 20th February 1948. The questions and the proposed answers are as follows as shown in Ex. 167: (See the attached photostat copy.)

Short notice question No. 864 put by Mr. A. J. Doddameti.

Will the Hon'ble Minister for Home and Revenue be pleased to state—

(1) whether it is a fact that the plot for the assassination of Mahatma Gandhi and plans for the assassination of other high-ranking Indian leaders were hatched in the Bombay Province;

(2) whether reports regarding the existence of such a plot had reached Government, prior to the assassination of Mahatma Gandhi;

(3) if so, what precautionary measures were taken by Government

Proposed reply

(1) As the investigation into the alleged conspiracy is still not complete, it is too early to give any information on the question asked in this clause.

(2) A private report reached Government on 21st January regarding such a plot. (In the original this is handwritten.)

(3) The Home Ministry was informed about this on 22nd morning and the

Short notice question No. 864 put by Mr. A. J. Doddameti.

Proposed reply.

Will the Hon'ble Minister for Home and Revenue be pleased to state —

(1) whether it is a fact that the plot for the assassination of Mahatma Gandhi and plans for the assassination of other high-ranking India leaders were hatched in the Bombay Province;

(2) whether reports regarding the existence of such a plot had reached Government, prior to the assassination of Mahatma Gandhi;

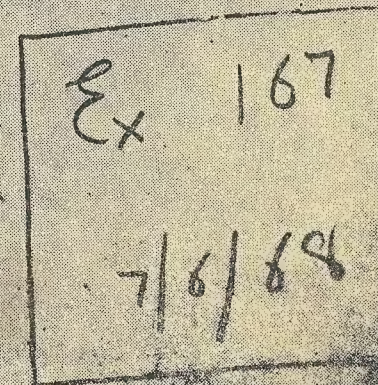
(3) if so, what precautionary measures were taken by Government to prevent the tragedy that followed;

(4) what is the number (district-wise) of the members of the R.S.S. so far arrested in the Province in connection with the assassination of Mahatma Gandhi?

(1) As the investigation into the alleged conspiracy to assassinate Mahatma Gandhi and other Indian leaders is still not complete, it is too early to give any information on the question asked in this clause.

(2) A report reached Govt on 21st Jan re. such a plot.

(3) Does not arise. The Home Ministry was informed about this on 22nd morning & the R.S.S. members who were arrested in connection with the assassination of Mahatma Gandhi. It is not possible to say at this stage how many of them are members of the R.S.S. Sangh.



to prevent the tragedy that followed;

C.I.D. Bombay took steps to watch the movements of suspected persons. (This is also handwritten.)

(4) what is the number (district-wise) of the members of the R.S.S. so far arrested in the Province in connection with the assassination of Mahatma Gandhi?

(4) Some persons have been arrested in connection with the assassination of Mahatma Gandhi. It is not possible to say at this stage how many of them are members of the R.S.S. Sangh.

This shows that in the proposed answers it was stated in reply to question No. 1—(1) that the investigation into the conspiracy was not complete till then and it was too early to give any information, (2) in answer to second question whether information of existence of such a plot had reached the Government prior to the assassination or not, the answer proposed by the office was "No", but Mr. Morarji Desai made corrections in his own hand showing that a report had reached Government on 21st January, 1948, (3) in reply to question No. 3 whether any precautionary measures were taken, the reply proposed by office was "does not arise" but the correction made in his own hand by Mr. Morarji Desai is "The Home Ministry was informed about this on 22nd morning and the C.I.D. Bombay took steps to watch the movements of suspected persons", and (4) in the fourth question it was asked how many members of the R.S.S. had been arrested in connection with the murder of Mahatma Gandhi, and the answer was that some persons had been arrested but it was not possible to say how many of them were R.S.S. members. A photostat copy of the questions and the answers as given in Ex. 167 is attached hereto. (See next page).

4.9 The Bombay Government has also placed on record the noting on these questions which were to be asked. The noting is Ex. 167-A. On this document the final note is by Mr. Morarji Desai dated 4th March 1948 in which he has said that the Honourable Member should be persuaded to withdraw the question as this matter is *sub judice* and the replies would create complications and consequently the question was withdrawn.

Second Inquiry

Kamte's letters and Rana's replies

4.10 Correspondence which passed between the Inspector General of Bombay, Mr. N. M. Kamte, and the D.I.G., C.I.D., Mr. U. H. Rana, constitutes evidence of some importance concerning the investigation into the bomb case, its defects, omissions and lapses as discernible. On February 6, 1948, Mr. Kamte wrote a letter to his D.I.G., C.I.D., Mr. Rana, Ex. 31-A saying that he had carefully gone through the statement of Madanlal which had been sent to him and which showed that there was sufficient indication to make out that

there was a plot to kill Gandhiji by certain Poona men and he wanted information on two matters from Mr. Rana—

- (1) What steps were taken by him to arrest them immediately; and
- (2) what steps were taken to send men to Delhi to comb out Delhi and arrest them there.

These were two specific questions to Mr. Rana asking about steps taken by Mr. Rana. To this Mr. Rana's reply is Ex. 31 dated February 24, 1948. In this letter he has set out the facts and sequence of events and of the action taken by the Delhi Police and Bombay Special Branch and Poona C.I.D. It says that on the 21st morning when two Delhi Police officers met him and presumably (although it is not so stated) gave him the information they had upto then, he (Rana) told them at once that the gang must be followers of Dr. Savarkar and suggested the sending of two police officers to contact Mr. Nagarvala at Bombay and Rao Sahib Gurtu at Poona and accordingly two officers were flown to Bombay. By that time, the Bombay Police had also come to know about Karkare and some enquiries had been made or as he put it this information had already been worked out by the Bombay City Police. The Delhi Police officers went and stayed at the National Hotel which was in the locality of the Sher-e-Punjab Hotel whose proprietor, Avtar Singh, had been detained by the Bombay City Police and whose name had transpired as one of the conspirators to kill Mahatma Gandhi.

4.11 The Delhi officers were in their uniforms with their revolvers and were going about Bombay, trying to locate "KIRKAREE" and not Karkare. They themselves knew nothing about Bombay. When they met Nagarvala, he asked them to change their place of residence but as they expressed their inability to go anywhere, one of the Inspectors of the Bombay C.I.D. volunteered to put them up.

4.12 Mr. Nagarvala also told them that if they wanted to move about, they must do so in *mufti*.

4.13 The movements of the officers were never restricted but it was explained to them that it was futile to make open street enquiries about Karkare who did not belong to Bombay and regarding whom enquiries were already afoot. They were asked to question Avtar Singh but they expressed their unwillingness to do so and decided to return immediately. Nagarvala had received no instructions through these police officers and he had no authority to detain them further and they left.

4.14 The letter then says that Madanlal did not make a statement making a clean breast till about the 23rd or 24th. The police officers returned to Delhi by train on the 24th and they saw him (Rana) on the 25th. Thereafter the D.I.B. called Rana and asked him why the officers were not allowed to move about and Rana told him that Nagarvala must have done it for sound reasons. Madanlal's statement was made available to Mr. Rana on the 25th and he left the same night by train *via* Allahabad reaching Bombay on the 27th afternoon and he found that investigation of Nagarvala was

on the right lines. The whole case was discussed with Nagarvala who gave him an idea of the investigation that had already been done and that he had learnt the names of Madanlal's associates through a source.

4.15 Thereupon the D.I.B. was contacted on the telephone and he was told of the "extreme necessity of every possible precaution for the protection of Mahatma Gandhi". The D.I.B. was told "to take every possible precaution for the protection of Mahatma Gandhi. This in itself will prove that both the Delhi and Bombay Police have done all they could". Nagarvala was in touch with them in Ahmednagar and every attempt was made to locate Karkare in Ahmednagar and Bombay but Karkare never went back to Ahmednagar. He returned to Bombay after a tour around Mathura and Agra and returned to Delhi on the 27th. Delhi Police had asked Nagarvala for no other person than Karkare and every attempt was made to locate him. Nagarvala asked him (Rana) to send somebody who would be able to identify the associates of Karkare from Poona and Ahmednagar. Rana left for Poona on the 28th and asked the D.S.P. Poona to spare his L.I.B. Inspector Angarkar. This was on the 29th. But that gentleman was down with fever. He sent a wireless message to recall Dy. S. P. Deulkar, who was in Colaba district at the time and he returned on the 30th night. Immediately thereafter officers were sent by plane as there was a lurking suspicion that these men will attack other Ministers in the Central Cabinet. Four officers were sent by plane. From the facts which were revealed later, the culprits had slipped out on the morning of 28th from Bombay.

4.16 To this letter Mr. Kamte replied by his letter, Ex. 32 dated March 6, 1948. He restated the two questions he had asked to which, according to him, Rana's reply appeared to be in the negative. He then asked Rana to give his remarks on certain specific matters which were—

- (1) What did the two police officers tell him (Rana) on the 21st which was not quite clear from the letter?
- (2) Why did he not ask his own C.I.D. to make inquiries because two officers from Delhi were not going to make much headway in Bombay or Poona?
- (3) The object of contacting Nagarvala by these police officers was not stated.
- (4) The statement of Madanlal was given to him (Rana) on the 25th. What action did he take till the evening of 27th?
- (5) The information that Nagarvala came to know through a source of associates of Madanlal was not correct because all he had known by then was Karkare's name and the other information was very vague. But in Madanlal's statement, pp. 7, 16, 18, etc., the description given therein showed that the other accused were Godse, Apte, Badge,

etc. Why was there no attempt made to arrest them as from the 25th evening.

- (6) Although on the 27th he had telephoned to the D.I.B. about taking precautions for the protection of Mahatmaji, he could very well have deputed his own C.I.D. men to Delhi because Madanlal's statement showed that there was a plan to kill Mahatma Gandhi by men from Bombay Province.
- (7) Mr. Kamte could not subscribe to the proposition that the Bombay Police had done all that they could in the matter of precautions to be taken about Mahatma Gandhi and the best thing which Rana could have done on the 29th was to have sent for Rao Sahib Gurtu and get that officer on the move.
- (8) Sending of men by plane to Bombay was done, at the suggestion of Mr. Kamte and not at Mr. Rana's for which Mr. Rana could not take any credit.

4.17 This letter makes some telling points of criticism—(a) why Rana did not send his own C.I.D. to make enquiries rather than send Delhi Police officers; (b) why he did not send his own C.I.D. to Delhi to protect the Mahatma; and (c) why he did not get hold of Gurtu even on 29th January.

4.18 The next letter of importance is Mr. Rana's reply to Mr. Kamte, Ex. 30, dated April 15, 1948. The following are the salient points from this letter:—

- (1) It was wrong assumption to make that Madanlal straightaway gave the names of his accomplices. His statement was made available to him (Rana) on the afternoon of 25th January, 1948. It was on that day that he first came to know about what Madanlal had said. In this statement, Madanlal had mentioned the editor of Hindu Rashtriya daily and the proprietor of Shashtra Bhandar of Poona and Karkare of Ahmednagar.
- (2) The two officers who came to see him (Rana) were Rikhikesh and Bhatia and not the two who had been sent to Bombay and from their talks he (Rana) concluded that the exploding of the brick was the work of Savarkarvadi group of the Hindu Mahasabha. Thus Rana told these two officers on the 21st before Madanlal made any statement which is rather important because one of the points in controversy is when did Madanlal disclose the names and give description of his associates. The officers who went to Bombay were not the same to whom Rana had talked and they did not see Rana on their return. "My suspicion of Savarkarvadi group's role in the conspiracy was also confirmed by the D.I.B." who had been informed by the Home Minister that Madanlal had met Savarkar before he came to Delhi and this suspicion was

further confirmed by the fact that the two officers were sent back from Bombay.

- (3) Rana did not think it necessary to take any further action because he presumed that the gang must have been located in Bombay and he had one C.I.D. Head Constable Yadav in Delhi who was directed to move about in Delhi and visit railway stations and try to locate Karkare whom the Head Constable knew "as a Communist from Ahmednagar". Rana did not think it necessary to send a special man from Bombay to Delhi. Rana's explanation for not doing anything further was that he had given instructions to the Delhi Police officers in regard to what was to be done in Bombay and Poona.
- (4) *En route* from Delhi to Bombay, Rana got fever. He went straight to Nagarvala who showed him what investigation had been done and Rana showed the statement of Madanlal which tallied with the information of Savarkarvadi group. Rana told him that he would send him a copy of Madanlal's statement immediately after reaching Poona to enable him to start further investigation in Bombay and Nagarvala asked him to send Poona Police officers to help him to identify those people and he specially asked for Angarkar. But Rana could not go to Poona as he had developed fever.
- (5) Rana talked to the D.I.B. and told him that Nagarvala was on the right lines and requested him to tighten up the arrangements at Birla House which showed that Rana took the necessary action in the matter.
- (6) Next morning he told the Home Minister, Bombay, of the lines of investigation.
- (7) He reached Poona at 4 p.m. and tried to get Angarkar but he was ill and then he tried to contact Deulkar but he was away to Colaba and therefore a wireless message was sent on the 29th.
- (8) The officers who flew to Bombay were not the ones who came to see him on the 21st January. And Rana did not make use of the telephone because the Delhi Police officers had gone with instructions from their own officers. Moreover, there was no secrecy in the telephone communication which would be supported by the D.I.B. and was clear from the fact that the telephone operators were chuckling when he and Rana were talking soon after the tragedy of 30th showing that there was a leak in the telephone operations.
- (9) That in the note book which Nagarvala had, there were seven or eight names and one of them was of Badge and therefore it was not correct that the only name that Nagarvala knew then was Karkare's.

- (10) Attempts to arrest Karkare and Badge were started long before 25th January 1948 and Nagarvala was doing his best in that connection.
 - (11) It was incorrect that Rana knew about the names of Godse, Apte and Badge and that that fact was also known to Nagarvala. "The fact is, as far as I am concerned, I did not know till I reached Poona who the editor and proprietor of Hindu Rashtriya was".
- As far as the Commission has been able to see, Mr. Rana made no effort to find out their identity or to take action to get them apprehended.
- (12) Moreover the impression Rana had was that the gang would be hiding in Bombay or roundabout Bombay and that he (Rana) met the Home Minister at Bombay on the 28th and he told him that Nagarvala was on the right track.
 - (13) He (Rana) had got his officers on the move on 29th January 1948 within a short time that he had at his disposal. "However, I will make it more clear. Rao Sahib Gurtu was there when D.S.P. Poona was called and the names of Apte, Godse and Badge were known from Rao Sahib Gurtu. I also asked him if Angarkar knows all three to which his reply was in the affirmative". There was no question of getting Gurtu and others in Poona on the move because the culprits were hiding in Bombay and the Bombay Special Branch were on their watch. The letter ended by saying "It is really disgraceful in that we have not been able to prevent this, and now I wonder if really we can justify our existence as C.I.D.s".

4.19 Ex. 33 contains the opinion of Mr. Kamte on Mr. Rana's letter, Ex. 30, of April 15, 1948. Ex. 33 has got no date but it only shows the reaction of Mr. Kamte. He there points out what should have been done. In the opinion of the Commission it is a document of some importance. In paragraph (1) Mr. Kamte has said that when the D.I.G. got Madanlal's statement on the 25th January, he should have taken action himself and not depended on Delhi officers.

(2) The D.I.G. cannot be absolved of his failure to contact the Poona C.I.D. giving instructions to arrest the persons whose names or descriptions were known from Madanlal's statement and it was no use finding fault with Delhi Police officers. The D.I.G. should have immediately informed Rao Sahib Gurtu. Even if the D.I.G. had fever, he could have sent a code telegram to Rao Sahib Gurtu and his telephoning to the D.I.B. was not the point at issue. The "only fact" was that he failed to take action immediately after receiving the statement of Madanlal. When he reached Poona, Rana should have asked the A.D.I.G. to arrest the persons whose names and descriptions had been disclosed in Madanlal's statement.

(3) If telephone conversation were considered undesirable, the D.I.G. should have sent a civil cipher code telegram.

(4) The names that the D.I.G. saw in Nagarvala's note book were not the names which Madanlal's statement disclosed and he wanted to know "why the Poona C.I.D. did not go to arrest men from Maharashtra".

(5) It may be true that the D.I.G. did not know the editor and proprietor of the Hindu Rashtra till he reached Poona. Therefore, it would have been better if he had informed Rao Sahib Gurtu by cipher telegram.

(6) Merely telling the D.I.B. to take preventive measures was not enough. The D.I.G. should have sent his own men from Poona for the purpose.

(7) The D.I.G. has said that Rao Sahib Gurtu was present when the D.S.P. Poona was called and the names of Apte, Godse and Badge were known from Rao Sahib Gurtu. That is exactly what Mr. Kamte had been saying all these days.

(8) If Rao Sahib Gurtu had been informed by the D.I.G., he would have taken necessary action.

(9) The culprits might have been in Bombay or near Bombay but if the Poona C.I.D. had information they would have made inquiries in Poona and if they thought that the culprits belonged to Savarkar group, they would have gone to Bombay.

(10) It was unfortunate that the D.I.G. did not realise the necessity of sending a man to Delhi immediately.

4.20 But what follows takes away the force of the criticism because it says, "he was being corrected for not realising this so that in future he may not commit these mistakes again". Unfortunately, there cannot be Gandhis over and over again, at least not in the very near future, and therefore this admonishing was wholly fatuous.

4.21 This correspondence to which the Commission has attached great importance shows this:

- (1) That Mr. Rana should have contacted his men at Poona rather than sending Delhi Police officers there.
- (2) After getting the statement of Madanlal on the 25th, he should immediately have got into touch with Rao Sahib Gurtu and asked him to get on the move.
- (3) The D.I.G. had failed in taking proper measures.

4.22 The correspondence also shows that the statement of Madanlal, which was first made, did not particularise any person excepting Karkare and the names or avocations of others were not given. Whether the descriptions were there or not is not easily discernible.

4.23 In the opinion of the Commission the assessment of Mr. Kamte was correct and had the D.I.G. taken only the most elementary step of asking his C.I.D. Poona about the identity of the associates of Karkare or Madanlal he would most probably have found out who they were. At any rate if officers could be flown from Poona after the murder to protect the Ministers in the Central Cabinet, the same course could have fruitfully been adopted after the bomb was thrown and Madanlal's statement of the 24th or 25th January had become available.

Fourth Inquiry

4.24 The fourth inquiry in Bombay was by way of a Cut Motion in the Bombay Legislative Assembly dated 12-3-1949 Ex. 232 where Mr. Morarji Desai gave his version of the Government that Prof. Jain had seen him on 21st January 1948 and had given him certain information but Jain had not told him that he had also seen Mr. Jayaprakash Narayan, and Jain's name was not disclosed to the police before the 30th because Jain did not want his name to be disclosed. He then said that whatever information he had received he conveyed to Sardar Vallabhbhai Patel at Ahmedabad where he, Mr. Desai, specially went to give that information to him. He also said that not only he informed Sardar Vallabhbhai Patel, but he also informed Mahatma Gandhi himself and told him that there was a real danger to his life and he implored him to be more careful and the only effective way that the danger could be checked was to search every person who was going to his residence or to his prayer meeting. But it was not possible to search these people without Mahatma Gandhi's knowledge and Mahatma Gandhi did not agree to any such thing. Mahatma Gandhi said that he would stop his prayers and go away from Delhi rather than reconcile himself to the people being subjected to searches. That is why it was not possible for the Delhi Police to take better steps and the Bombay Police could do nothing in the matter. He said:

"I told the police officer to take action against everybody who came under suspicion. Mr. Jain has not said that he gave me names of two other persons who ultimately were found to be in the conspiracy and who had nothing to do with the offence.....I have stated what steps were taken by the police force. I know all that because I was inquiring of the police officer constantly as to what was being done not only before the incident, but even afterwards when the offence was being investigated, because I wanted to give him the benefit, if any of my views and knowledge. I found that they were constantly on the move. Even at midnight I found that they were on duty. I found that the Police were not even caring for their meals. They had so much concentrated on the work. That is why I cannot say that they failed in their duty."

4.25 The Minister then denied the complaint of Prof. Jain that he was insulted or shouted down when he went the next time after the murder to see the Ministers.

Nagarvala's explanation

4.26 Mr. Nagarvala was asked to give his explanation which he did and is marked Ex. 14. It was sent to Government of India by Mr. Dehejia with his letter, Ex. 170 dated 25th March, 1949. Ex. 14 sets out the steps taken by him in the investigation, if one may so call it, which he conducted in Bombay after Mr. Morarji Desai gave him information about Karkare, etc. It is really a copy of the Crime Report from January 21, 1948 to January 30, 1948. It is not necessary to repeat the contents here because they are contained in the chapter dealing with the investigation at Bombay. To this he attached his letter to Mr. Sanjevi, Appendix A dated January 30, 1948 which is really Ex. 8. He also attached to his explanation certain other appendices—Appendix B, a list of places watched and names of persons watched during that period; Appendix C, his statement in court, portion of statement of Inspector Pinto and Deputy Superintendent of Police, Jaswant Singh.

4.27 When this explanation, Ex. 14, was received in the Secretariat, there was certain noting on it (Ex. 168) which was adverse to what Nagarvala had done. The office pointed out the various infirmities in the investigation which are worth mentioning.

(1) Badge was well-known to D.S.P. Poona. Why was he not contacted and why was Karkare made the central figure and the case started with Madanlal.

(2) Why did the Delhi Police not bring Madanlal's statement on January 22, 1948.

(3) What efforts were made to establish contact with Delhi and what action did Rana take on Madanlal's statement.

(4) Did Nagarvala spot an editor with initials N.V.G. from Poona who was Madanlal's companion.

(5) Did Nagarvala go to Ahmednagar to look for links of Madanlal there. Who was handling the investigation at Ahmednagar and Poona. If Badge was seen in Ahmednagar three days before and he was suspected, why was no action taken.

4.28 When this note went to Mr. Morarji Desai, he held a discussion with his Secretary and finally it was decided that Ex. 14 with the appendices should be sent on to the Government of India.

4.29 On the receipt of this explanation and explanation of Mr. Sanjevi, Ex. 7 with the annexures, Mr. Iengar made his remarks which have already been set out and Hon'ble the Home Minister, Sardar Patel, gave his remarks. The file was finally sent to Hon'ble the Prime Minister who just signed it.

CHAPTER V—SCOPE OF THE INQUIRY

Index of Paragraphs

- 5.3 Movements of conspirators as shown by judgments.
- 5.9 Prosecution story
- 5.17 Courts' findings
- 5.19 Meeting after release of convicted prisoners.
- 5.21 News in Indian Express
- 5.22 Times of India
- 5.27 Ketkar detained
- 5.29 Interpellation in State Legislative
- 5.30 Assembly and Parliament's interest
- 5.34 Commission appointed and terms
- 5.42 Trial Court and High Court findings and discussion of terms of reference
- 5.49 Scope discussed
- 5.63 Construction by Commission

CHAPTER V

Scope of the Inquiry

5.1 The circumstances under which this Commission was appointed are these : On January 30, 1948, Mahatma Gandhi was shot dead. He was the topmost leader of India whose position was higher than that of anyone else; he was the architect of a new independence movement, i.e., the achievement of freedom by non-violence, a novel concept in a world riven by strife and abounding in violence, war and aggression. He was both a saint and a politician. He was assassinated on January 30, 1948 while he was going to his daily prayer meeting at about 5 p.m. in the grounds of the Birla House by revolver shots fired by Nathuram Godse who was arrested at the spot. Previous to the murder, a young Punjabi refugee, Madanlal Pahwa, had burst a bomb at the back of Birla House damaging a wall and was arrested. In connection with that the Delhi Police were carrying on investigation, and that offence was found to be in pursuance of the conspiracy to murder Gandhiji.

5.2 In connection with both these offences, eight persons were arrested and put on trial, and the facts of the conspiracy with its object of murdering Mahatma Gandhi are clearly set out in the judgment of the learned trial judge, dated February 10, 1949, and the judgment of the Full Bench of the High Court of East Punjab dated June 21, 1949. It is not necessary to repeat them here except to give a short resume of the story preceding the murder.

Conspirators—movements of

Story unfolded in the judgments of courts

5.3 The story which the prosecution unfolded at the trial of the accused in the Gandhi Murder Conspiracy case sufficiently sets out the incidents which happened before the two occurrences, i.e., the exploding of a gun cotton slab and the assassination of Gandhiji which formed the bases of accusation against the accused in that case. The accused in that case were :—

- (1) Nathuram Godse, aged about 37.
- (2) Narain Apte, aged about 34.
- (3) Vishnu Karkare, aged about 38.
- (4) Madanlal Pahwa, aged about 20.
- (5) Shankar Kishtayya, aged about 20.
- (6) Gopal Godse, aged about 27.
- (7) V. D. Savarkar, aged about 66.
- (8) D. S. Parchure, aged about 47.

Of these, Nathuram Godse and N. D. Apte were respectively editor and manager of the newspaper, the Hindu Rashttra published in Poona. Previously it was published under the name of the Agranī but when action was taken against it under the Press Emergency Powers Act, it ceased publication and restarted under its new name. According to the judgment of the trial court, they were close associates and members of the Hindu Mahasabha with identical views and the evidence before the Commission is to the same effect. They were both sentenced to death and their sentences were upheld by the High Court and they were ultimately executed on November 15, 1949.

5.4 V. R. Karkare belonged to Ahmednagar. He owned a hotel, the Deccan Guest House, there. He was also a Hindu Mahasabhaite and both Nathuram Godse and Apte had known him for a considerable time. He also had identical political leanings. Madanlal Pahwa was a young Punjabi refugee who had come into contact with and under the influence of V. R. Karkare and through him he came into contact with Nathuram Godse and Apte. Badge was a man of ordinary status. He belonged to Gondhali caste of bards who specialise in devotional music. He was running a shastra bhandar (an arms shop) in Poona and was trafficking in arms, ammunitions and explosives. He was also a Hindu Mahasabhaite. He had been helped in starting his business by many persons, including Mr. G. V. Ketkar, witness No. 1. Shankar Kishtayya was a servant of Badge. Gopal Godse was the brother of Nathuram Godse and V. D. Savarkar was a well-known revolutionary leader who had distinguished himself in his violent anti-British activities and had come into prominence after his escape from a British ship in a French port. He later became a Hindu Mahasabhaite—its President—and was a leader of the militant group of that party. Parchure was a Hindu Sabha leader at Gwalior; he was a medical practitioner and resided in that town.

5.5 Of the accused, Madanlal threw a bomb or ignited a gun-cotton slab at Birla House on January 20, 1948. He was arrested at the spot. And 10 days later, i.e., on January 30, 1948, Nathuram Godse fired three shots at Mahatma Gandhi from a close range and was thus the actual murderer of the Mahatma. He also was arrested at the spot. The accused were prosecuted for murder and conspiracy to murder under sections 120-B and 302 and s. 307, Indian Penal Code and of various other offences under the Arms Act and the Explosive Substances Act.

5.6 According to the judgment of the trial court, the investigation into the gun-cotton explosion started on January 20, 1948 and into the murder on January 30, 1948, Mr. J. D. Nagarvala, I.P., Deputy Commissioner of Police, Bombay, was appointed on January 31, 1948, an Additional Superintendent of Police, Delhi, in addition to his own duties and investigation into both the incidents was taken up by him. As a matter of fact, his appointment was gazetted later with retrospective effect.

5.7 D. R. Badge who turned an approver was arrested at Poona on January 31, 1948. D. S. Parchure was first ordered to be detained and kept as a detenu at Gwalior as from February 3, 1948 and was put under arrest for the offence of conspiracy etc. on February 17, 1948. Gopal Godse was arrested while on his way to his native village Uksan in Poona District on February 5, 1948. Savarkar was taken into custody and detained as from February 5, 1948 and was put under arrest in the case on March 11, 1948. Shankar Kishtayya was arrested at Bhuleshehar near the residence of Dikshitji Maharaj and Dadaji Maharaj in Bombay on February 6, 1948. N. D. Apte and Karkare were arrested at Pyrkes Apollo Hotel at Bombay on February 14, 1948. Nathuram Godse was arrested at the spot and Madanlal had already been arrested on January 20, 1948, soon after he exploded the "bomb". There were three other persons who were alleged to be in the conspiracy—Gangadhar Dandwade, Gangadhar Yadav and Suryadeo Sharma—but they were absconding and successfully evaded arrest.

5.8 Vishnu R. Karkare was a kind of a hotelier at Ahmednagar. Madanlal was a refugee from Pakpattan Tehsil of Montgomery District and was residing after the Partition at the refugee camp at Visapur about 20 miles away from Ahmednagar. Gopal Godse is the brother of Nathuram Godse and was a Government servant and at the time of his arrest was employed in the Motor Transport Spares Depot at Kirkee. Shankar was the servant of Badge and used to prepare handles for daggers manufactured by Badge. D. S. Parchure was a medical practitioner in Gwalior. Badge, the approver, who was of Gondhli caste, belonged to Chalisgaon but had settled in Poona and was at one time associated with one Mr. Atre, the leader of the Congress Party, and was employed in the local municipality. After he was discharged from there, he was employed by Mr. G. V. Ketkar, witness No. 1, for collecting funds for the Hindu Anath Ashram and Hindu Sangathan Samiti with which Mr. Ketkar was intimately connected.

5.9 The story of the prosecution was that a conspiracy to murder Mahatma Gandhi was entered into sometime in December 1947 and Parchure, it was alleged, joined the conspiracy on January 27, 1948. In furtherance of the object of the conspiracy, Badge and Shankar brought two gun-cotton slabs and five hand-grenades with primers and detonators to Bombay on the evening of January 14, 1948 which were kept at the residence of Dikshitji Maharaj with a servant of his. Apte and Nathuram Godse arrived at Bombay the same evening, and went to the house of Dikshitji Maharaj with Badge to procure a revolver from him but could not get one. Karkare and Madanlal had arrived in Bombay sometime earlier and were staying in Hindu Mahasabha Bhawan where Badge and Shankar also stayed. On the 15th the explosives kept at the house of Dikshitji Maharaj were taken over by Karkare and Madanlal and were brought to Delhi the same evening tied up in a bedding. Badge and Nathuram Godse returned to Poona—Badge in order to make arrangements about his bhandar and Nathuram to fetch his brother Gopal Godse who had promised to provide him with a revolver. Badge and Shankar returned to Bombay reaching there early on the morning of the 17th. Evidently, Apte and Nathuram Godse were

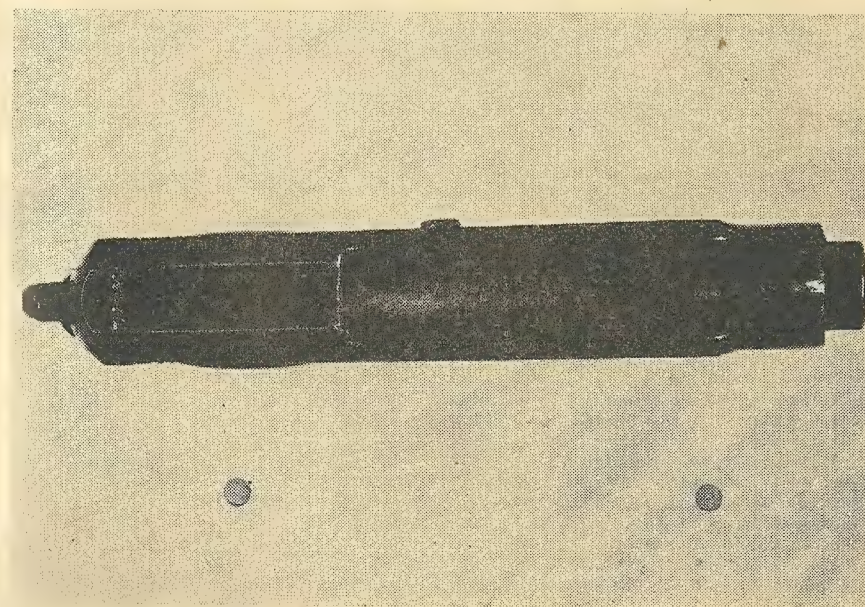
also in Bombay and they collected some money for expenses required to carry out their plot. Nathuram Godse and Apte left by plane on the afternoon of the 17th arriving at Delhi in the evening and stayed at the Marina Hotel, then a fairly posh European style hotel in Connaught Circus. Madanlal and Karkare had arrived the same day at about 12.30 p.m. and not being able to get accommodation at the Hindu Mahasabha Bhawan stayed at the Shariff Hotel. Badge and Shankar arrived at Delhi on the evening of the 19th and stayed at the Hindu Mahasabha Bhawan. Gopal Godse arrived at Delhi sometime after 17th January. One account was that he arrived on the evening of 18th January and met the others on 19th January. He also stayed at Hindu Mahasabha Bhawan. Thus, Badge, Shankar, Gopal Godse and Madanlal stayed at the Hindu Mahasabha Bhawan for the night. Apte and Badge and Shankar went to the Birla House on the morning of the 20th and made a survey of the prayer ground and the back of the servants quarters and then returned to Hindu Mahasabha Bhawan. In the jungle behind the Bhawan they tried out the two revolvers that they had brought but they were found to be unserviceable.

5.10 Thereafter they all met at the Marina Hotel in Nathuram's room and the plan for the evening was finalised which was that Madanlal should explode the gun-cotton slab at the back of the Birla House in order to create a commotion and taking advantage of the panic thus caused, Badge and Shankar would fire at Mahatma Gandhi with the two revolvers and would also throw at him a hand-grenade each. Badge was to fire the revolver and throw a hand-grenade from the trellis work of the window of the room in the servants quarter immediately behind where Mahatmaji used to sit at the time of the prayers. He was to enter the room posing as a photographer with the object of taking a photograph of the prayer meeting. Gopal Godse, Madanlal and Karkare were to throw the remaining hand-grenades on Mahatmaji at the same time. Apte and Nathuram were to give signals for the various participants to carry out their respective and assigned parts. In pursuance of this plan, the gun-cotton slab and a hand-grenade were given to Madanlal, one hand-grenade and revolver to Badge, one hand-grenade each to Gopal Godse and Karkare. The conspirators then left the Marina Hotel for Birla House, Madanlal and Karkare first, all the others excepting Nathuram Godse a little later in a taxi. Nathuram was to follow them. It is not necessary to give the rest of the story except to say that Madanlal ignited the gun-cotton slab on the wall near the back gate of Birla House but the others did not carry out their respective assigned parts and Nathuram Godse, Apte and Gopal Godse left immediately in the taxi by which they had come. Madanlal was arrested at the spot; Karkare, Badge and Shankar managed to escape.

5.11 While Nathuram Godse and Apte were in Bombay they had unsuccessfully tried to get a pistol from Dadaji Maharaj and Dixitji Maharaj. From Delhi they went to Gwalior arriving at 10.30 p.m. on 27th January and stayed the night and the day following with Dr. Parchure to whom they disclosed their plan and with his help and with of Dandwate the absconding accused they were able to get a pistol from one Goel. Leaving Gwalior the same night they



(i) Ex. 270 A—Pistol used by assassin Nathuram Godse.
[Para. No. 5.11]



(ii) Ex. 270 C—Another picture of the pistol.
[Para. No. 5.11]

arrived at Delhi the next morning where they were joined by Karkare and three of them spent the night in the retiring room at the Delhi Main Railway Station. The next evening, i.e., on the 30th January, Nathuram Godse shot Mahatmaji dead and was arrested at the spot. Two photographs of the assassin's pistol (Court Ex. 39) are attached herewith. (See next page).

5.12 The Commission has got two documents prepared which show the movement of the accused from January 9, 1948. They also set out the evidence in support of the movements indicated. (See Exhibit 276 and Exhibit 276-A).

5.13 It thus shows that the conspirators moved about from place to place. The principal ones amongst them were staying at better class and better known hotels like the Marina Hotel, New Delhi and the Elphinstone Annexe Hotel, Bombay and after the incident of the 20th they managed to escape by train—two to Poona and the principal accused, i.e., Nathuram Godse and Apte to Kanpur *en route* to Bombay. Karkare and Gopal Godse stayed the night in Delhi at the Frontier Hotel in Chandni Chowk and one left the following day and the other later. As far as the court record goes, it does not show that the conspirators were hiding themselves anywhere and beyond adopting pseudonyms they do not seem to have attempted to hide themselves.

5.14 On return to Bombay on January 23, Apte stayed at the Arya Pathik Ashram, Bombay, under an assumed name of D. Narayan and so did Nathuram Godse. Thereafter Nathuram Godse and Apte stayed in the Elphinstone Annexe Hotel from January 24, 1948—Nathuram Godse stayed under an assumed name of Vinayakrao. Apte spent the night between the 24th and 25th January 1948 with a woman in the Arya Pathik Ashram and then shifted to Elphinstone Annexe Hotel where they (Apte and Godse) stayed upto January 27, 1948. On the morning of January 25, Nathuram Godse and Apte went to the Air India office and got two seats reserved in the names of Narayanrao and Vinayakrao by the plane leaving on the 27th January. The four of them—Nathuram Godse, Gopal Godse, Apte and Karkare—met at the house of G. M. Joshi of the Shivaji Printing Press at Thana and conferred together there which really meant that they discussed their future plan to carry out the object of the conspiracy.

5.15 On January 26, 1948, in the morning, Nathuram Godse and Apte met Dadaji Maharaj and Dixitji Maharaj and asked their help to get a revolver but they did not succeed in getting one. On January 27, 1948, both of them left Bombay for Delhi by air. It is alleged that on the eve of their departure for Delhi the two principal conspirators, Godse and Apte, saw Savarkar but that is controversial. The rest of their movements, i.e., their reaching Delhi, proceeding to Gwalior, staying there with Dr. Parchure and getting a revolver through him and returning to Delhi on the 29th January 1948 and staying in a retiring room at the Delhi Railway Station have already been set out above. On January 30, 1948, at 5 P.M., Nathuram Godse carried out the object of the conspiracy, firing three shots at point blank range and thus killing Mahatma Gandhi.

5.16 The Commission thus has a complete picture of the movements of the conspirators from the time they left Poona on January 15, 1948, right upto the time they were arrested on various dates. It is not necessary to pursue the course of the trial before the Special Judge, Delhi and the appeal before the East Punjab High Court, but the fact remains that these persons after the arrest of Madanlal and after the information which had been given by Professor Jain were moving about in Bombay and in Delhi and other places and neither their names nor their identities could be discovered. The High Court has exonerated the police of all blame and held that this was in spite of strenuous efforts of the police through the trial judge had held the police lacking in diligence and thus blameworthy.

5.17 The Special Judge found seven of them guilty and sentenced two, Nathuram Godse and Apte, to be hanged; and the rest except Savarkar who was acquitted, were ordered to be transported for life. On appeal to the High Court, two more were acquitted, i.e., Parchure and Shankar Kishitayya. The appeal of the rest of the accused persons was dismissed; the sentences of death on Nathuram Godse and Apte were confirmed under s. 374 Cr. P.C. and the sentences passed on the other three were upheld.

5.18 Nathuram Godse and Apte were hanged in Ambala Jail on November 15, 1949. The rest were kept in Punjab Jails and then in Bombay jails. After they had served a certain number of years they unsuccessfully moved, on more occasions than one, the Supreme Court for writs of *Habeas Corpus* on the ground that they were entitled to claim remission for good conduct. Ultimately, on October 12, 1964, Gopal Godse, Karkare and Madanlal were released from jail by the Government of India although the Government of Maharashtra were not in favour and had so advised the Government of India. It is not for the Commission to say whether they were right or wrong. As a matter of fact, the Government of India were unwilling to disclose the reason for their going against the advice of the Government of Bombay. The fact remains that these persons were released.

5.19 The release of these persons was made the occasion of Satya-vinayak Pooja at Udyan Karyalaya at Poona. For this ceremony invitations were sent out on a post card, Ex. 29, under the name of one M. G. Ghaisas. The invitation was in Marathi and its English translation supplied by the Government of Bombay is as follows:—

SHRI GAJANAN PRASANNA

(i.e., May Lord Ganpati bless)

With respect of love—

To rejoice the release from jail of Shri Gopalrao Godse—the brother of Patriot (deshbhakt) (Italics are by the Commission) the late Nathuram V. Godse, Shri Vishnupant Karkare and Shri Madanlal Pahwa, we (their friends) are going to perform Shri Satya Vinayak Puja and Congratulate them by inviting them here: You are

therefore requested to remain present for this ceremony along with your friends.

Yours,

M. G. GHAISAS.

Time—Thursday 12-11-1964 5:30 P.M. to 7:30 P.M. Place Udyan Karyalaya, 619 Shaniwar Path, Poona - 2.

5.20 It is significant to note that in this invitation Nathuram Godse was described as 'Deshbhakt', i.e., a patriot which is demonstrative of the mentality of the organisers of the function and it may not be too remote an inference that the invitees would be sympathetic if not holding the same or similar views. The affidavit filed in the Bombay High Court by M. C. Ghaisas, who was also detained as a consequence of the function, shows that about 50 invitations were sent. Actually the attendance was about 3 or 4 times that number. It has variously been described as 125 to 200.

5.21 In the issue of the Indian Express dated the 14th November, 1964, Ex. 26, under the caption "POONA EDITOR KNEW OF THE PLAN TO MURDER MAHATMA GANDHI", there was a report of the proceedings of this function by its Poona Correspondent to the effect that Mr. G. V. Ketkar, former editor of the *Kesari* and at that time editor of the *Tarun Bharat* presided at the function and the occasion was described as a reception in the newspaper which indeed it was and was given in honour of Gopal Godse and Vishnu Karkare. Mr. G. V. Ketkar there made a speech in which he said that he knew from Nathuram Godse assassin of Gandhiji, of the "plan" to murder Gandhiji quite a "few weeks earlier" but he was opposed to Nathuram's idea. The proceedings of the function which may be termed a *puja* or a meeting shows that Gopal Godse and Karkare narrated their jail experiences. The following extract from the newspaper, *The Indian Express*, Bombay, shows what exactly Mr. Ketkar said:—

"Mr. Ketkar presided over the function, which was held in Udyan Mangal Karyalaya. It was attended by about 100 men and women.

"Mr. Ketkar disclosed that for about three months prior to Gandhiji's murder, Nathuram 'used to discuss with me the *pros and cons*' of his idea to kill Gandhiji. He was opposed to the idea and 'used to tell Nathuram to consider the consequences, both social and political'.

"Mr. Ketkar said that after the first incident (Madan Lal had exploded a bomb at Gandhiji's prayer meeting a few days before the murder), Badge (who turned approver) had come to Poona and told him (Mr. Ketkar) of 'their future plans'.

"Mr. Ketkar added that he thus knew that they were going to kill Gandhiji.

"As Mr. Ketkar said these things, Mr. Gopal Godse asked him not to speak 'more about it'. But Mr. Ketkar said that 'they will not arrest me now for that'."

5.22 Ex. 27B is a report of the proceedings as given in the *Times of India* dated 16th November 1964 which is a little more informative. Therein it is said that Mr. Ketkar recently asserted that he had advance information about Nathuram Godse's intention to assassinate Mahatma Gandhi, and told the Times of India News Service, that he had informed the late Balukaka Kanitkar about Godse's intention to murder Mahatma Gandhi and that Kanitkar had written to Mr. Kher but the State Government did not act on the information received. Ketkar also said that he tried to dissuade Nathuram Godse from doing bodily harm to Gandhiji. Mr. Ketkar further disclosed that Nathuram Godse, had in a public speech, said that he would like to see how Mahatma Gandhi would realise his wish of living upto 125 years. This disclosure about the advance information was condemned by the Poona City District Congress Committee as a dangerous trend which was harmful to the State. The President of the D.C.C., Mr. B. N. Sanas, drew the attention of the State Government to Mr. Ketkar's statement and he also wanted the Government to take note of the fact that those who had been sentenced in the Mahatma Gandhi Murder case were felicitated by certain persons in Poona on their release from prison.

5.23 When the *Indian Express* report appeared in its issue dated November 14, 1964, Mr. G. V. Ketkar issued a clarification which is as revealing as his previous speech. This is Ex. 27A, and appeared in the *Indian Express* of November 17, 1964. He confirmed the news being given to the then Premier Mr. B. G. Kher through the late Balukaka Kanitkar to whom Mr. Ketkar had conveyed Nathuram's intention to kill Gandhiji. He further said that the report is the previous issue of the *Indian Express* was "generally correct" but the objection that Ketkar took to the report was in regard to the use of the words "plan to kill Gandhiji". The clarification was in the following words:—

"In his 'clarification', Mr. Ketkar said that what Nathuram had told him was his 'intention' to kill Gandhiji and not his 'plan' to murder Gandhiji."

* * * * *

"I stated in my closing remarks that after Nathuram Godse had disclosed to me some months before (Gandhiji's murder) his intention of murdering Gandhiji I had tried to dissuade him on political, social and moral grounds.

"Published reports of that speech are generally correct. I had spoken about it (Nathuram's intention) to the late Balukaka Kanitkar. He (Kanitkar) had then written to the then Chief Minister, B. G. Kher, informing him Nathuram's intention. Kanitkar had shown me a copy of that letter (to Kher).

"Since I expressed opposition to Nathuram Godse he did not speak to me about the matter. Hence I had not come to know in advance his actual plan."

5.24 In the same issue, the *Indian Express* adversely commented upon Mr. Ketkar's conduct. It said that Ketkar's foreknowledge of the assassination of Mahatma Gandhi only added to the mystery of

the circumstances preceding the crime. In other words, the Poona Editor had information from Godse himself of the assassin's 'intention' and not of his 'plan'. This subtle difference does not greatly alter the patent fact that Mr. Ketkar, as a responsible citizen, had a clear obligation to prevent the assassination as far as it lay in his power. It also said that it was the duty of the Government to come out with the facts in fairness to the Poona editor. The paper added—

"But the story would not end there. Even if Mr. Ketkar is cleared by an official confirmation of his claim, a further explanation would still be required of those who last week made such a show of Godse's 'martyrdom'. The Poona 'reception' for the assassin's two accomplices was a sordid reminder of the ugly spirit which still moves some people in this country. Have we really fallen so low that not only the murderer of the Father of the Nation but also those who, in the eyes of the law, helped him in his heinous act are to be regarded as national heroes? The Poona 'reception' was a shame beyond description. There can be no two opinions about it."

5.25 The *Poona Daily News* also published a report of Ketkar's clarification in its issue of 16th November, 1964, Ex. 28. There the clarification is different. A reference is made by Mr. Ketkar to the speech of Nathuram Godse at a meeting mentioning about Gandhiji's utterances of living upto 125 years and then he mentioned his having a talk with Balukaka Kanitkar about this intention of Nathuram Godse and it was Balukaka Kanitkar who had "relayed" the fact to Mr. B. G. Kher. Further, it is asserted that everything to avoid this calamity was thus done "when I told Nathuram that it is wrong way to behave in the politics and it would have grave and misdirected repercussions."

5.26 Ex. 182 dated November 24, 1964, is a letter from the District Magistrate to the Government of Bombay regarding reaction to the disclosure made by G. V. Ketkar. Poona City, it said, was stirred by Ketkar's statement and the subsequent functions to celebrate the death anniversary of Nathuram and the situation had become tense but because of the intervention of the leaders of political parties, no mishap took place.

5.27 By an order dated November 24, 1964, the District Magistrate, Poona, ordered the detention amongst others of G. V. Ketkar. It will be relevant to note at this stage that after the comments in the *Indian Express* and before the passing of the order of detention, on November 23, 1964, Mr. Ketkar left Poona and fled to Madras on 24th November. On November 25, 1964, he surrendered himself before the Commissioner of Police at Madras. He was then brought back to Poona and on the way when the train was within the boundaries of the Maharashtra State, the order of detention was served on him at midnight and he was first detained in Poona Yervada Jail and then in "Akola District Prison".

5.28 After his detention he put in a petition, Ex. 18, to the Reviewing Authority under the Defence of India Rules, wherein he denied

the allegations which had been made against him in the *Indian Express* report and he tried to meet the inference which the comments in that newspapers had drawn. He stated therein that he met Balukaka Kanitkar and conveyed to him Nathuram's public speech and his corroborative private talk with him (Ketkar) and he urged on Balukaka to communicate the fact to the authorities and that Balukaka had done so. He also stated therein that "shocking confession" was nothing new and that he had disclosed it earlier to Mr. R. K. Khadilkar who is now the Deputy Speaker of the Lower House, who was also examined before this Commission at witness No. 97 but he had no recollection of any such talk. It is difficult to imagine that if there had been any such talk, it could have been forgotten.

5.29 Evidently there were interpellations in the Maharashtra Legislative Assembly on February 25, 1965 in regard to the reception in honour of Gopal Godse and Karkare who had been convicted in the Mahatma Gandhi Murder case. According to Mr. Ketkar himself there was a furore in the public press and as a consequence he, Ketkar, was ordered to be detained. There was also an uproar in both Houses of Parliament and indignant speeches were made there. In the Council of States there was a Calling Attention Motion in regard to the statement made by Mr. G. V. Ketkar regarding the "plan" of Nathuram Godse to assassinate Mahatma Gandhi. The Home Minister, Mr. Gulzari Lal Nanda, in his speech said that at a meeting to felicitate Gopal Godse and Vishnu Karkare, Mr. Ketkar had claimed that he had known of the intention of Nathuram Godse to assassinate Mahatma Gandhi and had conveyed this information to the late Mr. B. G. Kher through Balukaka Kanitkar; that as both Balukaka and Mr. Kher were dead, Government was making a thorough inquiry into the matter with the help of old records in consultation with the Government of Maharashtra.

5.30 Mr. A. D. Mani asked the Home Minister whether he had received a detailed report as to what happened at the meeting and referred to what had been published in the newspapers. He asked further whether any attempt had been made by Government of India to ask Mr. Ketkar to give all those details which he knew. Mr. Nanda in reply said that it should be possible to take action against a person who was an "accessory before the act".

5.31 Mr. Bhupesh Gupta, another M.P., made a spirited speech and said that two things had clearly emerged from the proceedings: (1) disclosures about the plan to murder Mahatma Gandhi were made by Mr. Ketkar, and (2) the organisation of the reception itself. He further said that at the time of assassination of Mahatma Gandhi people had a feeling that there had been some dereliction of duty somewhere and that he had not been given the protection which he should have been given. He said:—

"Is it not a fit case for a very high-powered enquiry into the whole revelations that had been made in order to find out whether and in what manner the information was received, the communication about the intention was received by

Mr. Ketkar, what he did later on, to whom he sent, and so on? I think that if it had been so much talked about at that time, the would-be murderer coming and talking to Mr. Ketkar, it is tantamount to an admission that the matter had been discussed in a conspiratorial manner amongst others also. What was the Bombay Government doing at that time? We would like to know whether the Bombay Government and the Central Government and the Central Intelligence had any inkling or indication with regard to such things. This is very very important."

He added that he would suggest that because there was a deliberate dereliction of duty on the part of some people in high authority who had got information through Mr. G. V. Ketkar directly or indirectly, he would suggest that a high-powered enquiry be held into the whole matter. He ended his speech by saying:—

"I should like to know whether they, after having failed to protect Mahatma Gandhi's "life, are today going to allow these kinds of things. All these things have to be explained."

5.32 Another Member, Mr. Thengari, wanted to know whether the Government were forewarned by Mr. Balukaka Kanitkar who had urged it to take precautions.

5.33 Professor M. B. Lal said the fact that Ketkar presided over the meeting indicates that he was not so innocent as he tried to show himself to be and that he had written a number of articles inciting hatred against Mahatma Gandhi. Many other Members expressed their feeling of disgust at the hideous glorification of such murders like the assassination of Mahatma Gandhi. It was under these circumstances that this Commission of Inquiry was set up by the Central Government.

5.34 The Commission has appended to this portion a copy of the Parliamentary Debates which show how the Members of Parliament reacted to the revelations made by Mr. Ketkar. Appendix II.

5.35 In pursuance of these debates the Central Government by a notification dated March 22, 1965, appointed a Commission of Inquiry for the purposes of making an inquiry into the matters of public importance therein specified and the terms of reference were:—

- (a) Whether any persons, in particular Shri Gajanan Viswanath Ketkar, of Poona, had prior information of the conspiracy of Nathuram Vinayak Godse and others to assassinate Mahatma Gandhi;
- (b) whether any of such persons had communicated the said information to any authorities of the Government of Bombay or of the Government of India; in particular, whether the aforesaid Shri Ketkar had conveyed the said information to the late Bal Gangadhar Kher, the then Premier of Bombay, through the late Balukaka Kanitkar;

- (c) if so, what action was taken by the Government of Bombay, in particular by the late Bal Gangadhar Kher, and the Government of India on the basis of the said information.

Mr. Gopal Swarup Pathak, M.P., a Senior Advocate of the Supreme Court was appointed to make the inquiry. On his being appointed a Central Minister and then Governor of the State of Mysore, this Commission was reconstituted and I was appointed to conduct the inquiry. That is how this Commission of Inquiry came to be constituted.

5.36 The terms of reference were amended by notification No. 31/28/68-Pol.I(A) dated October 28, 1968, and in clause (c) the words "and by the officers of the said Governments" were added with retrospective effect so that the third clause now reads as under:—

- (c) If so, what action was taken by the Government of Bombay, in particular by the late Bal Gangadhar Kher, and the Government of India and by the officers of the said Governments on the basis of the said information.

5.37 The first term, i.e., (a), refers particularly to Mr. Ketkar of Poona and whether he or any other person had prior information of the conspiracy of Nathuram Godse and others to assassinate Mahatma Gandhi.

5.38 The second term refers to any communication by such persons, as are mentioned in the first term, of the information to the Government of Bombay or the Government of India and in particular whether Mr. Ketkar had conveyed this information through Balukaka Kanitkar to the late Balasahib Kher.

5.39 And the third term refers to the action taken by one or the other or both the Governments or any of the officers of the said two Governments.

5.40 Clause (b) is wide enough to cover not only the Government of Bombay and the Government of India but also any of the authorities of those Governments which would include various officers under the Governments including those belonging to the police and civil administration.

5.41 Now the first term uses the words "had prior information of the conspiracy of Nathuram Vinayak Godse and others to assassinate Mahatma Gandhi" and the use of the word "conspiracy" in the context, it is submitted, perhaps not unjustifiably, is significant and important. Is the Commission confined to the prior knowledge of "conspiracy" as it is defined under section 120A of the Indian Penal Code or does it refer to the general danger to Mahatma Gandhi's life from a group of persons which would include Nathuram Godse as their mentor. The danger could have been from other persons also as was suggested by Mr. Morarji Desai in his evidence before the Commission or was hinted at by Gopal Godse, witness No. 33.

5.42 Both the trial court which tried the Gandhi Murder Conspiracy case and the High Court to which the appeal was taken after the conviction, have given their findings as to when the conspiracy came into existence. According to the judgment of the Special Judge Mr. Atma Charan, existence of the conspiracy could be deduced at least on January 9, 1948. The learned judge has said:—

"There is no evidence forthcoming on behalf of the prosecution as to when the 'conspiracy' was first entered into and by whom and where. However, it may safely be inferred from the "movements of the accused and their conduct that the 'conspiracy' was in existence at least on 9th January 1948 when Narayan D. Apte sent Vishnu R. Karkare and Madanlal K. Pahwa along with two more individuals to examine the 'stuff' at the house of Digambar R. Badge. Narayan D. Apte, Vishnu R. Karkare and Madanlal K. Pahwa must have been in the 'conspiracy' at that time. Nathuram V. Godse comes in the picture first on 10th January 1948 when he along with Narayan D. Apte asked Digambar R. Badge to be supplied with two gun-cotton-slabs and five hand-grenades. Nathuram V. Godse must have been in the 'conspiracy' at that time. Digambar R. Badge joined the 'conspiracy' on 15th January 1948 when he agreed to accompany Nathuram V. Godse and Narayan D. Apte to Delhi. Gopal V. Godse must have been in the 'conspiracy' on 14th January 1948 when he put in an application for seven days' casual leave. Shankar Kistayyaa joined the 'conspiracy' on 20th January 1948 when he was told by Digambar R. Badge the purpose of their visit to the Birla House. Dattatraya S. Parchure joined the 'conspiracy' on 27th January 1948 when he agreed to get a pistol procured for Nathuram V. Godse and Narayan D. Apte."

5.43 The East Punjab High Court accepted this finding regarding the coming into existence of the conspiracy. There is also the evidence of Gopal Godse, witness No. 33. He stated that Nathuram made up his mind to finish Gandhiji when Gandhiji justified on January 13, 1948, his resolve to go on fast.

5.44 If the scope of the Commission is only to be circumscribed to the prior knowledge regarding "conspiracy" then any information that anybody might have had in regard to the danger to the life of Mahatma Gandhi from individual persons in Poona or wherever they might be would be excluded from the scope of the Inquiry unless there is proof "of their agreeing to do an illegal act" or they had banded together or formed a plot to do so. In S. 120A, the word 'criminal conspiracy' is defined as follows:—

"S. 120A. When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

"(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy;

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.”

5.45 Conspiracy, according to the Shorter Oxford English Dictionary, means a combination of persons for an evil or unlawful purpose; an agreement between two or more to do something criminal, illegal, or reprehensible; a plot.

5.46 In Webster's Third International Dictionary the meaning is as follows:—

Conspiracy: 1. (a) an illegal, treasonable, or treacherous plan to harm or destroy another person, group, or entity; (b) an agreement manifesting itself in words or deeds and made by two or more persons confederating to do an unlawful act or use unlawful means to do an act which is lawful: Confederacy 2. a combination of persons banded secretly together and resolved to accomplish an evil or unlawful end: 3. a striking concurrence of tendencies, circumstances, or phenomena as though in planned accord.

5.47 In the notification, the word used in clause (a) is 'conspiracy' which is a term of art and when used in legal documents must ordinarily connote the meaning given to it in the law relating to conspiracies as contained in the Indian Penal Code. And in this case, the conspiracy is specified as being a conspiracy of Nathuram Godse and others to assassinate Mahatma Gandhi. Even according to its dictionary meaning, conspiracy is a combination for unlawful purposes; a plot, and is connected with something illegal.

5.48 So viewed and so considered, anything disclosed in July 1947 by Balukaka Kanitkar or Mr. Ketkar or both of them individually, or collectively, even if it was of a definite kind, would be excluded as there was no conspiracy of Nathuram Godse then.

5.49 If the scope of the Inquiry is confined to the knowledge of conspiracy technically so called, in the Penal Code or its meaning as given in dictionaries and if the conspiracy came into existence sometime on the 9th of January 1948 or thereabout or even in November 1947, then any inquiry into any knowledge or information in possession of Mr. G. V. Ketkar or anyone else before that date would be *dehors* the terms of reference in the notification and any inquiry by this Commission constituted under that notification with that limited mandate would be barred.

5.50 In both its legal sense and in its non-legal sense the word 'conspiracy' has reference to a combination or banding together. And therefore if one were to give to this word the legal meaning of S. 120A Indian Penal Code or the ordinary connotation of banding

together then unless G. V. Ketkar's or other evidence refers to such plotting of which the architect was Nathuram Godse, the scope of the Commission's Inquiry will be extremely constricted and narrow.

5.51 If on the other hand the word 'conspiracy' is not given its technical meaning then anything known or coming to the knowledge of Messrs. Ketkar or Balukaka Kanitkar individually or to both of them together or to any other individual relating to the intention or plan to murder Mahatma Gandhi or relating to a threat or danger to his life would be within the scope of the Inquiry by this Commission. A plan or intention may be of one person or more than one person acting together but conspiracy can only be between two or more than two persons. It is not even alleged that information given by Mr. Ketkar to Balukaka Kanitkar, assuming that it was given, was regarding a conspiracy or banding together of two persons or more and therefore if the Commission were to attach to the word 'conspiracy' its technical meaning that information would not be within the boundaries of the mandate of the Commission of Inquiry set up by the notification. And that would hardly be in conformity with what the Parliamentary debates disclose or what clearly appears to be the matter which was agitating the minds of the public as reflected in the speeches of the various Honourable Members of Parliament, in the Council of States or in the House of the People.

5.52 If the Commission were to take a technical view of the wording of the notification then prior to 20th January 1948 the only person outside the accused persons who had prior knowledge of the conspiracy was Professor Jain and his two friends with whom he held talks about Madanlal's disclosures; and Mr. G. V. Ketkar to whom such a plan was disclosed by D. R. Badge on or about the 23rd January 1948. Nobody has even alleged that before January 20, 1948 Professor Jain informed anyone in authority of the existence of the conspiracy or even of the danger to Mahatma Gandhi's life; of course, after January 20, 1948, when Madanlal was arrested and he made a "confessional" statement, the Delhi Police also came to know of the existence of the conspiracy but as to when they came to know about the identity of the conspirators or the participants in the offence may not be so easy to say or even relevant at this stage.

5.53 Professor Jain's knowledge of the conspiracy to put it in his own words was this:—

"Then he (Madanlal) said that there was a conspiracy to murder. I asked, whom do you want to murder. Do you want to murder me. He said that he did not know who was to be murdered. I asked him: "do you want to murder Jinnah." He said: "no, because Jinnah was too well guarded and nothing could be done about him." I named Maulana Abul Kalam Azad. Then I mentioned Sardar Patel. He said: "no". From my house I took him to the sea shore. I tried to draw him out by talking nicely. Even then he would not give the name. So I put a direct question as to who the person was that was going to be murdered. He named Mahatma Gandhi."

5.54 It may be added that on the 21st January Professor Jain gave this information of the conspiracy to Premier B. G. Kher and Mr. Morarji Desai and reference may be made to Mr. Morarji Desai's statement as P.W. 78 in the court of the Special Judge at page 166 of the High Court record. Even there the word used is not conspiracy but what is said is "He (Jain) then said that Madanlal his friends had decided to take the life of a great leader.....Madanlal then gave the name of Mahatma Gandhi."

5.55 In his statement before the Commission in answer to a question regarding conspiracy, Mr. Morarji Desai said:—

"There were rumours that there was a conspiracy going on against Gandhiji because of the Partition and of the 55 crores. I did not hear people saying that there was no escape for him and his life was in danger. This was about the time when he undertook the fast."

So that this also puts the matter in January 1948.

5.56 A Commission of Inquiry under the Commissions of Inquiry Act is, it has been so held by the Supreme Court, a fact-finding body and is not a judicial tribunal in the sense that that word is used. If the word 'conspiracy' and the language of the terms of the notification constituting this Commission of Inquiry were to be interpreted as statutes, statutory orders or legal documents are interpreted, i.e., according to the rules of interpretation by courts and other judicial or quasi judicial tribunals, then whatever was said and debated in Parliament previous to the notification constituting this Commission may not be relevant for its interpretation and if the word 'conspiracy' were to be strictly and legally construed, the mandate of Parliament and its direction for or requirement of collection of facts connected with Mr. Ketkar or Balukaka Kanitkar and what they said or did and what information they gave would not be carried out and the wishes of Parliament would be thwarted, frustrated and remain unfulfilled and the debate would become sterile. That would be stultifying the Commission itself and make its setting up thoroughly futile, useless and inutile if not facetious. That should be prevented and avoided as far as it is reasonably possible.

5.57 Now two persons are mentioned by name in clauses (a) and (b) of the notification—G. V. Ketkar and Balukaka Kanitkar. So it will be fruitful to discuss at this stage what they disclosed to the authorities if they did disclose anything at all or anything definite.

5.58 The evidence of Mr. G. V. Ketkar does not disclose his knowledge of conspiracy prior to January 20, 1948 and in this word "evidence" would include his statement as a witness before the Commission; his petition and affidavit to the Bombay High Court; petition to the Detenus Reviewing Board or any other document which he has chosen to place before this Commission. As a matter of fact, before January 20, 1948, the only person who had prior information of the conspiracy as such was, as has been said above, Professor Jain, but he, to put it mildly and even charitably, was sceptical,

hesitant and even dubitant. He was examined by the Commission more than once and was readily available whenever summoned to appear and was always ready and anxious to give whatever information he possessed.

5.59 Professor Jain has deposed with regard to the conspiracy that somewhere in early January Madanlal met him while he (Jain) was returning from the college and he told him (Jain) that he wanted to talk to him and accompanied Jain to his house. Karkare was also there, watching from a little distance. The same night Madanlal again, this time alone, came to Jain and started talking "at random" about diverse matters. Then he disclosed to Jain that there was a conspiracy to murder somebody and when Jain mentioned various names to Madanlal, he got, perhaps extracted, the name of Mahatma. After getting information of this sinister design, the Professor took no serious action except preaching to Madanlal and then imagined, unfortunately and quite mistakenly if not vaingloriously, that he had succeeded in dissuading him from his nefarious design and in persuading or talking Madanlal out of his murderous intentions. Why he thought so is difficult to discover. But this is what he says and for the present if may be left at that. This talk about the murder of Mahatma Gandhi took place somewhere in January and soon after Professor Jain tried to see Mr. Jayaprakash Narain, a socialist leader of some eminence, but he could not tell him (Mr. Jayaprakash Narain) anything as the latter was so busy. Then he disclosed it to two of his colleagues and friends, Mr. Angad Singh, witness No. 28 and Professor Yagnik, witness No. 29, and Mr. Angad Singh disclosed the matter to Mr. Ashoka Mehta and Mr. Harris who were both leaders of the socialists at that time. But both of them have no recollection of these talks. Mr. Angad Singh has also stated that he disclosed this information to Mr. Jayaprakash Narain but the latter has no such recollection, nor does he remember this gentleman himself. So, thus far, it was only the future conspirators themselves and Professor Jain and his colleagues who knew anything about the conspiracy. Professor Jain's two colleagues and friends were equally undecided and sceptical about what Jain told them.

5.60 It would be relevant to mention that what Professor Jain or his friends say they knew about the conspiracy, must have been known to Parliament when they debated the statements of Mr. G. V. Ketkar because they had appeared as prosecution witnesses at the trial and the propriety or otherwise of their behaviour and performance was not the basis or the reason or the cause of Parliamentary debate.

5.61 The debate in Parliament and the story disclosed by Mr. Ketkar which led to the matter being taken up by Parliament and spiritedly discussed there does not point to exclusion of Ketkar's disclosures from the scope of the Inquiry, rather it is a pointer the other way. And the Commission is of the opinion that its mandate includes and it is required to go into the whole matter and discuss

the evidence produced before it. It does not propose to circumscribe the Inquiry within the narrow limits of the legal connotation of "conspiracy" or its dictionary meaning which was the matter in issue at the Gandhi Murder trial.

5.62 The rule of construction of statutes which has been adopted by courts ever since the *Lincoln College Case*,¹ and which has uniformly been accepted as the proper rule of construction is *Exposition Ex Visceribus Actus*, i.e., language of the whole Act has to be looked at. And the court has to consider any other part of the Act which throws light on the intention of the Legislature and which may serve to show that the particular provision ought not to be construed as it would be alone and apart from the rest of the Act; in other words, every clause of a statute should be construed with reference to the context and other clauses in the Act to make a consistent enactment of the whole statute.²

5.63 Thus construed, we have to look at the three terms of reference, (a), (b) and (c), together and to construe them together. This rule of construction requires that in order to effectuate the particularised portion in terms (b) referring to the information given through Balukaka Kanitkar, we have to add to the words, "conspiracy of Nathuram Vinayak Godse and others to assassinate Mahatma Gandhi", the words "plan or intention to assassinate Mahatma Gandhi or danger to the life of Mahatma Gandhi or the threats to his life" as in cases of *casus omissus*. This is so because the conspiracy came into existence, according to the findings of the court, at least on January 9, 1948, and according to the case of the prosecution in December, 1947. As the letter of Balukaka Kanitkar was written in July 1947, it could possibly not have referred to any conspiracy to murder Mahatma Gandhi as technically understood. It must have reference to intention or plan to assassinate or to any threat given to the life of Mahatma Gandhi or any danger sensed against his life. As a matter of fact, Balukaka Kanitkar's letter, so far as the Commission has been able to see, referred to the life of Congress leaders, including Mahatma Gandhi.

5.64 In any case, to carry out the intention of Parliament and to subserve its directions and to give a harmonious interpretation, it is necessary to construe the words "conspiracy to assassinate" to include at it were plan or intention to assassinate or danger to the life of Mahatma Gandhi or threats to his life.

5.65 The Commission, therefore, holds that it is within the scope of this Inquiry not only to inquire about the knowledge of persons mentioned in the terms of reference about the conspiracy of Nathuram Godse and others to assassinate Mahatma Gandhi but also to enquire into any knowledge of plan or intention to kill or threat or danger to his life.

5.66 The story as disclosed by the evidence before the Commission is that sometime in July 1947 Balukaka Kanitkar got some information in regard to danger to the life of top Congress leaders

which included Mahatma Gandhi and sent a registered letter to Mr. B. G. Kher at Delhi. So, if the first term is read in its literal sense, what is contained in the second would be excluded. If, in any case, to the expression "conspiracy of Nathuram Godse and others to assassinate Mahatma Gandhi" the technical meaning as contained in the Indian Penal Code is given, then the object of this Inquiry will be absolutely frustrated and the Commission will be left more or less in the position that the court was when it tried Godse, Apte, Karkare and others for the conspiracy to murder and for the murder of Mahatma Gandhi. It could not have been the intention of Parliament, nor would this interpretation subserve the directions of Parliament as contained in the Parliamentary debates which have been attached as appendix II to this Report.

5.67 In the opinion of the Commission, this interpretation is much too narrow and militates against the object of setting up of the Commission. It is for that reason that the Commission has adopted the interpretation of the words prior knowledge of "conspiracy to assassinate" to include prior knowledge of danger to Mahatma Gandhi's life or threats to his life rather than giving it the technical meaning as contained in the Indian Penal Code. It is by adopting this track of construction that the intention of Parliament can be complied with.

5.68 As said above, the scope of the Inquiry is not limited to the conspiracy of Nathuram Godse and others and, therefore, any evidence led before the Commission regarding the knowledge which any person possessed not only as to the conspiracy but also as to the intention or plan to assassinate or to the danger and threats to the life of Mahatma Gandhi by one person or more is relevant and, therefore, evidence regarding the knowledge of Mr. G. V. Ketkar, Balukaka Kanitkar, Mr. S. R. Bhagwat, Mr. Keshavrao Jedhe, Mr. R. K. Khadilkar, and Mr. N. V. Gadgil will be relevant. The documentary evidence dealing with the knowledge of Balukaka Kanitkar or of any other person will also be relevant and would fall within the terms of reference and, therefore, within the scope of the Inquiry.

5.69 The first term of reference, (a), was as follows:—

- (a) Whether any persons, in particular Shri Gajanan Viswanath Ketkar, of Poona, had prior information of the conspiracy of Nathuram Vinayak Godse and others to assassinate Mahatma Gandhi.

When analysed, this term requires finding out—

- (i) whether any persons had prior information of the conspiracy;
- (ii) in particular whether Mr. G. V. Ketkar of Poona had this information;
- (iii) the conspiracy which is indicated in the terms of reference is the one in which the participants were Nathuram Godse as the principal and also others; and

1. (1595) 3 Co. Rep. 58b.

2. See Lord Davey in *Canada Sugar Refining Co. v. R.* (1898) A. C. 735, 741.

- (iv) the object of the conspiracy mentioned was to assassinate Mahatma Gandhi.

5.70 In order to decide the first point, it is necessary to deal with the statement of Mr. Ketkar himself. He is witness No. 1. It will next have to be seen whether his statement receives corroboration from documentary, oral or circumstantial evidence. The Commission will first discuss the statement of Mr. Ketkar and see how far his own statement supports the claim that he had prior information. (See Chapter XX).

CHAPTER VI—BACKGROUND OF THE ACCUSED

Index of Paragraphs

6.2	Godse
6.10	Apte
6.14	Karkare
6.25	Gopal Godse
6.27	Badge

CHAPTER VI

Background of the accused

6.1 It will be helpful if the background of the various accused persons and their movements after the conspiracy was formed are set out at this stage. These are based on Exhibits 276 and 276-A.

Godse

6.2 He was one of the originators of the Rashtra Dal which held its first camp in Poona in May, 1942. On January 16, 1944, he with Apte decided to start a newspaper and they did start "the Agrani" on March 1, 1944.

6.3 On January 2 or 3, 1948, Godse and Apte went to Ahmednagar and met Karkare. On January 10 Godse and Apte were promised by Badge that he would supply them with ammunition, termed the stuff, at the Hindu Mahasabha office at Bombay. On January 14, 1948 Godse and Apte met Savarkar. Badge brought the promised ammunition. Godse, Apte, Badge, and Shankar, went to the Dixitji Maharaj and left the ammunition there either with him or with his servant. It is not quite clear which it was.

6.4 On January 15, 1948, Godse, Apte, Badge, Karkare, and Madanlal, held a meeting at the Hindu Mahasabha office and then went to Dixitji Maharaj and took from there the ammunition that they had left there. Karkare and Madanlal were then asked to leave for Delhi. Godse evidently returned to Poona. Badge also promised to go to Delhi.

6.5 On January 17, 1948, Godse, Apte, Badge and Shankar saw Savarkar at his house. Godse and Apte left Bombay for Delhi by 2.00 P.M. plane and arrived at Delhi at 7.30 P.M. and stayed at the Marina Hotel from the 17th till the 20th January, 1948. On 19th January they saw Badge at the Hindu Mahasabha office. They also met Ashutosh Lahiri and Dr. Satya Prakash at the Hindu Mahasabha Bhawan. On 20th January, Nathuram Godse, Apte, Karkare, Madanlal, Shankar, Gopal Godse and Badge met at the Marina Hotel. The same day in the evening, Madanlal exploded the gun cotton slab at the prayer meeting in the presence of Nathuram Godse. Godse and Apte fled from there and hurriedly left the hotel and then left for Kanpur by the night train where they reached the next morning.

6.6 On the following day, they both stayed at the retiring room at the Kanpur Railway Station. On 22nd January they left Kanpur for Bombay by Punjab Mail and arrived at Bombay on 23rd January. They stayed a day and a night at the Arya Pathik Ashram and

shifted to Elphinstone Hotel Annexe on 24th January. On January 25, Godse and Apte met Karkare and Gopal Godse at Ville Parle. The same day they booked seats for Delhi in the Air India plane for 27th January under assumed names. On the same day, i.e., 25th, Godse and Apte obtained a loan of ten thousand rupees from one Pranjpe, really Bank Silver Company in Bombay. The money was paid by Pranjpe the next day partly (Rs. 8000.00) by cheque and partly in cash (Rs. 2000.00) which was supposed to be meant for the 'Hindu Rashtra'. On January 27, Godse and Apte came to Delhi by Air and the same afternoon went to Gwalior by the Grand Trunk Express and stayed with Dr. Parchure. The next day Goel brought them a revolver which was defective. Then Dandwate brought another revolver which was purchased by Godse for Rs. 300.00. Leaving Gwalior that evening they reached Delhi the next morning, i.e., 29th January, and stayed at the Delhi Main Railway Station in a retiring room (No. 6). Karkare also stayed there with them.

6.7 On 17th January, 1948, Godse had got from one Kale one thousand rupees and at Lalbaug he met Charandas and got a donation of five thousand rupees, showing that they were well provided with money.

6.8 Their movements of the 29th and 30th are important and, therefore, they may be given at some length. Karkare had gone to Birla Dharmshala in the morning. Godse and Apte met him there. At about 1.00 P.M. Apte, Godse and Karkare went to the Old Delhi Railway Station and engaged retiring room No. 6. Godse gave his name as N. Vinayak Rao. Thereafter Apte, Godse and Karkare went to the *maidan* and took some decisions there. At 4.00 P.M. all three of them—Apte, Godse and Karkare—went to Birla House and found about 400 persons attending the prayer meeting. They then returned to Old Delhi Railway Station. Apte and Karkare went to the pictures at New Delhi. It should have been added that Apte, Godse, and Karkare went some time in the afternoon to the jungle behind Birla Mandir and Godse fired three or four rounds with the pistol and buried handgrenades there. Apte and Karkare returned from the cinema some time after midnight.

6.9 Now we come to the 30th January, the fateful day. On that day Apte, Karkare and Godse after having their breakfast at the Railway Station Restaurant went to Birla Mandir. Godse fired three or four rounds in the jungle behind Birla Mandir. At 11.30 A.M. Godse returned to the Old Delhi Railway Station and Karkare went to the Madras Hotel. Karkare went to Old Delhi Railway Station and there met Apte and Godse at about 2.00 P.M. At 4.30 P.M. Apte, Godse and Karkare left Delhi Railway Station by tonga and reached Birla Mandir. Godse went to Birla Mandir to have *darshan* of the deity there. Apte and Karkare then went to Birla House. Godse at about 5.00 P.M. shot at Mahatma Gandhi and was arrested there. At about 6.00 P.M. Apte and Karkare left by tonga and returned to Old Delhi Railway Station.

Apte

6.10 Apte was evidently a better educated person. He did his B.T. in 1941-42 and then became a member of the Hindu Rashtra Dal which at that time had about 50 or 60 members in Poona and of which Godse was a prominent worker. In 1943 he returned to Ahmednagar and was selected for I.A.F. but he obtained his discharge after about four months and joined Godse in starting the 'Agrani' in 1944. He was the person who had arranged the black flag demonstration at Panchgani against Mahatma Gandhi's consenting to C.R. Formula.

6.11 It is not necessary to go further back than January 1948. On 2nd or 3rd January 1948, Apte and Godse went to Ahmednagar and met Karkare there. On the 13th January, 1948, Apte and Godse told Badge to deliver the arms and ammunition, called the stuff, at the Hindu Mahasabha office in Bombay. On 14th January, 1948, Apte and Godse went to Bombay by evening train and were dropped at Savarkar Sadan by one Miss Shanta Modak, a film actress, and they met Savarkar at 7.30 P.M. Apte, Godse, Badge, Karkare, Madanlal and Shankar went to Dixitji Maharaj and left the stuff, i.e., arms and ammunition there and they stayed the night at Sea Green Hotel. Apte asked Badge to meet him at the V.T. Railway Station on the morning of January 17, 1948. On 15th January, 1948, Apte went to Kirkee to persuade Gopal Godse to accompany them to Delhi. On 17th January, 1948, Apte and Godse met Badge at V. T. Railway Station. All three of them went to the Bombay Dyeing Mill for collection of money. Apte, Godse, Badge, Karkare and Shankar saw Savarkar. Apte and Godse went to the Air India Office and arranged their air passages to Delhi. Apte and Badge met Dixitji Maharaj for a pistol but did not get one. Apte and Godse went to Delhi by plane, reaching there at 7.30 P.M. on the 17th January and stayed at Marina Hotel from 17th January, 1948, to the evening of 20th January, 1948.

6.12 On the 18th January, 1948, Karkare met Apte near Birla House and in the evening they surveyed Birla House. On 19th January, 1948, Apte and Godse met Ashutosh Lahiri and Dr. Satya Prakash at the Hindu Mahasabha Bhawan. They also met Badge there some time late in the evening. On the 20th January, 1948, Apte, Badge, Shankar "inspected" Birla House and surveyed the locality round it and Apte, Badge, Shankar and Gopal went to the jungle to try out the firearms and plans were finalised. The gun cotton slab was to be burst by Madanlal. As stated in the case of Godse, Apte and Godse left for Kanpur by the night train after fleeing the Birla House, reaching Kanpur on the 21st January, 1948, and stayed in the retiring room. On the 22nd January, 1948, they left for Bombay by Punjab Mail and reached Bombay on 23rd evening.

6.13 On 31st January, 1948, Apte and Karkare left Delhi by Allahabad Express at 3.30 P.M.; the former travelled 2nd Class and the latter 3rd Class. On 2nd February, 1948 Apte and Karkare arrived in Bombay and stayed at Sea Green Hotel. On 3rd February,

1948, Apte and Karkare went to Elphinstone Annexe Hotel and Apte contacted Miss Manorama Salvi. On 5th February, 1948, they went with G. M. Joshi to Thana. Apte and Karkare went to stay in Apollo Hotel on 13th February, 1948, and Apte was arrested at Pyrkes Apollo Hotel at Bombay on 14th February, 1948.

Karkare

6.14 Karkare was a hotel keeper of Ahmednagar and was a prominent member of the Hindu Mahasabha there. He used his moneys in furtherance of the cause of the Hindu Mahasabha and in that process he worked amongst the refugees and managed to attract to himself Madanlal, who made himself notorious in Ahmednagar by his violent activities against Muslims and against some Congress leaders like Raosahib Patwardhan. There is evidence to show that in starting his business Karkare got some assistance from N. D. Apte who was a school master in Ahmednagar at the time.

6.15 He was mentioned by S. V. Ketkar as the person who had given him arms and ammunition which were found with Ketkar and, therefore, the hotel and house of Karkare were also searched. Godse and Apte met him at his hotel on January 2 or 3, 1948. He left Ahmednagar on January 6, 1948. On the 7th he met Apte at the 'Agrani' office. On 9th January he introduced Madanlal to Apte and in the afternoon took Madanlal to Badge's house to see the 'stuff' meaning arms and ammunition. On the 10th he went to Bombay and then to Thana to G. M. Joshi's house. On the 11th he met Madanlal at the Hindu Mahasabha office, Bombay, and then went to Chembur Camp with him. On 13th he went to see Savarkar but could not meet him and met him on the following day and introduced Madanlal to him. He then went with Madanlal to Professor Jain at about 6.00 P.M. On the 15th Apte, Badge and Karkare with Godse and Madanlal went to Bhuleshwar and met Dixitji Maharaj and took the 'stuff' (arms and ammunition) from Dixitji Maharaj. Both Madanlal and Karkare left for Delhi by Peshawar Express and reached Delhi on January 17 along with one Angchekar and stayed at the Hindu Sharif Hotel. That evening Badge came to Birla Dharmshala where Karkare met him and they decided to meet the next morning, i.e., 18th. Karkare met Apte and Godse at the Marina Hotel on the morning of the 18th and after having breakfast he along with Apte and Godse went to New Delhi Railway Station to meet Gopal Godse but Gopal Godse did not arrive. They then returned to Hindu Mahasabha Bhawan. At 11.30 A.M. on that day Godse gave a chit to Karkare for the Secretary, Hindu Mahasabha, for allotment of a room to him, and, as a consequence, room No. 3 was allotted to him. At 3.30 P.M. Apte, Godse and Karkare went to Birla House and then returned to Marina Hotel. Karkare had his dinner with Godse and Apte at the Marina Hotel and then went to New Delhi Railway Station to see if Gopal had arrived, but they did not find Gopal and they returned to the Marina Hotel for the night. As a matter of fact, Gopal Godse arrived that evening and slept at the platform.

6.16 Next morning (on 19th) all three of them visited Birla House and surveyed the prayer ground. Gopal arrived that day at the Hindu Mahasabha Bhawan at 11.30 A.M. Karkare and Madanlal returned to Sharif Hotel and in the evening they along with Gopal returned to Hindu Mahasabha Bhawan at about 8.00 P.M. At 9.00 P.M. Madanlal and Karkare went to Gole Market and had their meals there. The same evening, Apte, Badge, Karkare and Gopal discussed the plan for shooting at a meeting in the forest near Hindu Mahasabha Bhawan. Apte and Karkare then returned to Marina Hotel and slept there. Others went to the Hindu Mahasabha Bhawan.

6.17 On the 20th, Karkare came to the Hindu Mahasabha Bhawan in the morning. At 12.30 P.M. Karkare and Madanlal left Hindu Mahasabha Bhawan and went to Birla House and then to Marina Hotel. Apte had his lunch there and others at the Madras Hotel. All subsequently met at Marina Hotel and armed themselves with various weapons. At 4.00 P.M. Madanlal and Karkare went to Birla House. Karkare and Gopal went and mixed with the congregation. At 4.45 P.M. the bomb was exploded. After the explosion, Karkare went to Frontier Hindu Hotel and stayed in room No. 2. Gopal Godse also went to the Hindu Mahasabha Bhawan and then to the Frontier Hindu Hotel and stayed there in room No. 4 under the name Gopalan.

6.18 On 21st, Karkare visited Hindu Mahasabha Bhawan and Old Delhi Railway Station. At 9.30 A.M. Gopal left from Old Delhi Railway Station for Bombay. Karkare left Frontier Hindu Hotel and shifted to the Railway Station at Old Delhi.

6.19 On 22nd January 1948 Karkare was in Delhi and spent the night in the waiting room at Delhi Railway Station. Next day, i.e., 23rd, Karkare left Delhi for Mathura at 3.00 P.M. and stayed in Mohan Gujarat Hotel as V. M. Vyas. Next day at 4.00 P.M. Karkare went to Agra by bus and left Agra Cantt. for Itarsi by Madras Express at 8.30 P.M.

6.20 On 25th January, Karkare took the Allahabad Express and went to Kalyan and from there to Thana and stayed with G. M. Joshi. On the 26th January he and Gopal met Apte and Godse at the Thana Railway Station at 9.30 P.M. and that night Apte, Godse and Karkare met at Thana Railway Station and took decisions about Delhi. Apte paid three hundred rupees to Karkare for expenses.

6.21 On 27th January, 1948, Karkare had his morning meals with Joshi. At 12.30 P.M. he left Thana for Dadar and posted some letters at L. J. Road Mahim. At 3.00 P.M. Karkare bought his ticket at the Bombay Central Railway Station for Delhi and left Bombay by Frontier Mail at 5.45 P.M. reaching Delhi at 8.30 P.M. on 28th. He stayed in the retiring room.

6.22 On 29th January, Karkare went to Birla Dharmshala and kept his bedding there where Godse and Apte met him. At 1.00 P.M. Apte, Godse and Karkare went to Old Delhi Railway Station and

stayed at retiring room No. 6. At 4:00 p.m. Karkare went to Birla House with Apte and Godse where about 400 persons had collected. They then returned to Old Delhi Railway Station.

6.23 On the 30th, after breakfast at the railway station restaurant, Apte, Karkare and Godse went to Birla Mandir and Godse practised shooting in the jungle behind. At 11:30 A.M. Karkare went to Madras Hotel and met Apte and Godse at the Delhi Railway Station retiring room at 2:00 p.m. At 3:30 p.m. Apte, Godse and Karkare left New Delhi Railway Station and went to Birla Mandir and from there Apte and Karkare went to Birla House and, as already stated, Godse shot at Mahatma Gandhi. Apte and Karkare then fled to the Old Delhi Railway Station at 6:00 p.m. and stayed the night on the platform along with the refugees.

6.24 On 31st January 1948, both Apte and Karkare left Delhi Railway Station for Itarsi and there Karkare got the Allahabad Express and reached Kalyan on 2nd February, 1948, and then went to stay at Sea Green Hotel at Bombay. On 4th February 1948 he and Apte met Joshi and on the 5th February they went to stay with him. On the 7th February also he was with Joshi. On 9th February 1948 he went to Poona reaching there in the morning of 10th February. On that day he slept at the platform among the refugees. On 11th February he went to Dhond by Madras Express and returned to Poona at 9:30 p.m. and went to Lonavala and from there to Thana. He met Joshi on the 13th February and then stayed at the Apollo Hotel. He was arrested from there on 14th February, 1948.

Gopal Godse

6.25 On the 14th January, 1948, Nathuram gave him two hundred rupees to get a revolver and at the instance of his brother, Gopal left Bombay and went by Punjab Mail to Delhi reaching there on the 18th January and slept at the platform at night. Next morning he went to Hindu Mahasabha Bhawan and met Karkare, Nathuram Godse and Apte and then went to Birla House to survey the surroundings. Thereafter he went to Hindu Mahasabha Bhawan.

6.26 After the explosion on the 20th he stayed at the Frontier Hotel and left it on the 21st January and left Delhi at 9:30 A.M. and reached Bombay at 11:00 A.M. on the 22nd and from there went to Kirkee reaching there at 5:00 p.m. On 24th January Apte went to see him to inquire about the revolver and also asked him to accompany him to Bombay. On 25th January Gopal gave Nathuram a revolver and then went to Thana at Joshi's place where he met Karkare and then returned to Poona.

Badge

6.27 Badge's movements might also be given. He reached Delhi at 10:00 p.m. on 19th January, 1948 and went to the Hindu Mahasabha office where he met Madanlal and Gopal. Later, Apte, Karkare and Godse came to see him.

6.28 On 20th January he went to Birla House for surveying the grounds, etc., and then returned to the Hindu Mahasabha office. At 4:30 p.m. he again went to Birla House with others and after the bomb explosion he fled from there and with Shankar caught the Peshawar Express at 10:00 p.m. at the Delhi Railway Station and reached Kalyan on 22nd January and from there proceeded to Poona arriving there at 4:00 p.m. He went for Devi yatra in the jungles of Poona on the 30th and returned to Poona on the 31st when he was arrested.

6.29 It is not necessary to set out Shankar's movements because he is stated to have been with Badge.

6.23 On 20th January he went to Birla House for surveying the grounds etc. and then returned to the Hindu High School office. At 4.30 p.m. he again went to Birla House with others and after the bomb explosion he fled from there and with Shankar caught the 4.55 p.m. Express at 10.00 p.m. at the Delhi Railway Station and reached Kalyan on 22nd January and from there proceeded to Poona arriving there at 4.00 p.m. He went for Dev Vastu in the jungles of Poona on the 20th and returned to Poona on the 21st when he was arrested.

6.29 It is not necessary to set out Shankar's movements because he is stated to have been with Badge.

6.30 It is not necessary to set out Shankar's movements because he is stated to have been with Badge.

6.31 It is not necessary to set out Shankar's movements because he is stated to have been with Badge.

6.32 It is not necessary to set out Shankar's movements because he is stated to have been with Badge.

6.33 It is not necessary to set out Shankar's movements because he is stated to have been with Badge.

CHAPTER VII—JURISDICTION OF THE COMMISSION

Index of Paragraphs

- 7.3 Sambasivam Case (P.C.) and Supreme Court's case.
- 7.9 Mr. Justice Bhandari's findings.
- 7.13 Res Judicata.
- 7.16 Christie's and Timothy's cases.

CHAPTER VII

Jurisdiction of the Commission

7.1 The main objection to the jurisdiction of the Commission to make an Inquiry into the conduct of the police, i.e., its shortcomings, its inaction or its acts of commission or omission, its negligence in the matter of investigation of the bomb case, was raised in an application by Mr. J. D. Nagarvala, wit. 83. His main contention against the jurisdiction of this Commission was based on the ground that after the strictures passed by the learned trial judge, Judge Atma Charan, the High Court came to a different conclusion; and that once a court or a competent tribunal has come to the conclusion on a point in controversy in a criminal matter that becomes *res judicata* and cannot be reopened and the decision is binding and conclusive in all subsequent proceedings between the parties to the adjudication.

7.2 Although no judgment was relied upon, the law on the subject is well settled; i.e., if in a criminal court a verdict is given on a matter which is in controversy, then the matter must be treated as *res judicata* and cannot be reopened by any court or tribunal.

7.3 The matter was so decided by the Privy Council in *Sambasivam v. Public Prosecutor, Federal of Malaya*¹, and the Supreme Court of India stated the law under section 403 of the Criminal Procedure Code in terms similar to that stated by the Privy Council in *Pritam Singh v. State of Punjab*². In *Sambasivam v. Public Prosecutor* the Privy Council laid down the following proposition:—

“The effect of a verdict of acquittal pronounced by a competent court on a lawful charge and after a lawful trial is not completely stated by saying that the person acquitted cannot be tried again for the same offence. To that it must be added that the verdict is binding and conclusive in all subsequent proceedings between the parties to the adjudication.

The maxim ‘*res judicata pro veritate accipitur*’ is no less applicable to criminal than to civil proceedings. Here, the appellant having been acquitted at the first trial on the charge of having ammunition in his possession, the prosecution was bound to accept the correctness of that verdict and was precluded from taking any steps to challenge it at the second trial.”

Therefore, it was contended that if in the *Gandhi Murder Case*, which comprised the offence of bomb throwing, attempt to murder, and murder, the conduct of the police or the quality of their investigation of the Bomb Case, i.e., whether they investigated any par-

1. (1950) A.C. 548.
2. (1956) A.S.C. 415.